

# Exhibit 11

CONFIDENTIAL  
Graham Wade – March 16, 2022

Page 1

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
CASE NO. 18-MD-2865 (LAK)

-----  
IN RE: )  
 )  
 )  
CUSTOMS AND TAX ADMINISTRATION OF )  
THE KINGDOM OF DENMARK )  
(SKATTEFORVALTNINGEN) TAX REFUND )  
SCHEME LITIGATION )  
----- )

C O N F I D E N T I A L

REMOTE VTC VIDEOTAPED EXPERT DEPOSITION UNDER ORAL  
EXAMINATION OF  
GRAHAM WADE

DATE: March 16, 2022

REPORTED BY: MICHAEL FRIEDMAN, CCR

CONFIDENTIAL  
Graham Wade – March 16, 2022

17 (Pages 62 to 65)

Page 62	Page 63
<p>1       <b>A</b> I'm happy to answer questions on 2 specific ones.</p> <p>3       <b>Q</b> Well, I'm just asking you a general 4 question on one of the topics that you said 5 that you analyzed here.</p> <p>6       I'm asking you what forms the basis 7 for your opinions that payments received by 8 entities were not dividends?</p> <p>9       <b>A</b> And we -- just to be clear --</p> <p>10       <b>MR. OXFORD:</b> Objection to form.</p> <p>11       <b>A</b> -- are we talking about the Solo 12 transactions, or the ED&amp;F transactions, or 13 both?</p> <p>14       <b>Q</b> Let's start with ED&amp;F transactions.</p> <p>15       <b>A</b> Okay. Well, in the case of the 16 ED&amp;F transactions, my conclusions are based 17 on a number of factors, but the fundamental 18 one being that the shares that were used to 19 settle the cum ex transactions were the same 20 shares that separately dividends were 21 received on and used to support other tax 22 vouchers.</p> <p>23       And so it's my conclusion, as laid 24 out in my report and subject to all of the 25 other points I make in my report, that there</p>	<p>1 were no dividends received on the other -- on 2 the cum ex transactions.</p> <p>3       <b>Q</b> Okay. And I'm asking you what you 4 consider your expertise to be that allows to 5 you draw that conclusion?</p> <p>6       <b>A</b> My expertise? Well, it's, you 7 know, the -- I've spent a significant portion 8 of my career involved in structured financial 9 transactions, and I am able to -- you know, I 10 have reviewed the trades that were done, how 11 they were arranged, and all the details as 12 laid out in my report, and I -- I think I've 13 given the reasons why I reached those 14 conclusions as a result of that experience in 15 my report.</p> <p>16       <b>Q</b> Okay. Again, if it's not a legal 17 opinion, would you agree that whether 18 financial transactions executed by the 19 various defendants would entitle an entity or 20 individual to a dividend is informed by legal 21 principles?</p> <p>22       <b>MR. OXFORD:</b> Objection to form.</p> <p>23       <b>A</b> No, not really, no. I think, as 24 I've said, my opinions lead me to conclude 25 that as a matter of fact, there were no</p>
<p style="text-align: center;">Page 64</p> <p>1 shares, and so there were no dividends. 2       And so I think that's a fairly 3 straightforward conclusion to draw from my 4 study of these transactions.</p> <p>5       <b>Q</b> Okay. Other than for the trades 6 that you say were used for more than one tax 7 voucher -- withdrawn. Let me re-ask that 8 question.</p> <p>9       Other than trades for which you say 10 shares were used to support more than one tax 11 voucher, is there any other basis for 12 concluding that any of the ED&amp;F transactions 13 did not entitle the pension plans to 14 dividends?</p> <p>15       <b>MR. OXFORD:</b> Objection.</p> <p>16       <b>A</b> There are a number of -- as I said, 17 all of the bases for my opinions are included 18 in my reports and they should be taken as a 19 whole. So if you have a question on a 20 specific one, I'm very happy to answer it.</p> <p>21       But it's a combination of all the 22 factors that I've covered in my report taken 23 together.</p> <p>24       <b>Q</b> Okay. Can you tell me what those 25 factors are? Can you summarize them for me?</p>	<p style="text-align: center;">Page 65</p> <p>1       <b>MR. OXFORD:</b> Objection to form.</p> <p>2       <b>A</b> Okay. Well, apart from 3 the -- apart from the absence of shares, the 4 other most fundamental reason, although, as 5 I've said, there are others in my report, is 6 that the nature of the way the cum ex 7 transactions were structured is that even if 8 there had been shares, it would still not 9 have been the receipt of the dividend. It 10 would have been a receipt of a dividend 11 compensation payment.</p> <p>12       <b>Q</b> Okay. And whether something is a 13 dividend or a dividend compensation payment, 14 that's informed by legal principles.</p> <p>15       Right?</p> <p>16       <b>MR. OXFORD:</b> Objection to form.</p> <p>17       <b>A</b> I think it's formed by an 18 understanding of the market practice that 19 relates to security financing and equity 20 finance transactions.</p> <p>21       <b>Q</b> Okay. So it's your testimony that 22 whether something is a manufactured dividend 23 or a real dividend or a dividend compensation 24 payment is not informed by any legal 25 principles?</p>

CONFIDENTIAL  
Graham Wade – March 16, 2022

24 (Pages 90 to 93)

Page 90	Page 91
<p>1 transaction that was done is influenced by my 2 understanding of market regulation. But it 3 is all the facts and circumstances taken 4 together as a whole that leads me to my 5 opinion that in the cum ex transactions that 6 I've reviewed, the pension plans did not 7 receive the dividend.</p> <p>8 Q Okay. I'm asking you a different 9 question. I want you to focus only on the 10 securities contract between the parties.</p> <p>11 Are you aware of any regulation 12 relevant to whether or not a securities 13 contract, standing alone, would or would not 14 have intended to confer a dividend rate on 15 the buyer?</p> <p>16 MR. OXFORD: Objection to form.</p> <p>17 A My response to that is that in 18 order to understand the nature of the 19 contract between parties, one needs to 20 understand the full facts and circumstances 21 of the case. And that is, in part, 22 influenced by my understanding of securities 23 market regulation, which would have 24 influenced the terms on which the parties 25 were able to arrange and execute those</p>	<p>1 transactions. 2 And it's for all the reasons given 3 in my report.</p> <p>4 Q Okay. The transactions that you 5 analyzed in your report, are you aware of any 6 regulations that impact, in the securities 7 contract, whether the securities contract did 8 or did not intend to confer a dividend right 9 on the buyer?</p> <p>10 MR. OXFORD: Objection to form.</p> <p>11 A Well, I think the -- the reasons, 12 I've given a number of reasons in my report 13 as to why I concluded that the nature of the 14 transactions between the parties were not 15 intended to deliver a dividend to the pension 16 plan, the overriding one of which is there 17 weren't shares to support the dividend and 18 that the pricing clearly indicated that the 19 seller did not receive a dividend. And so 20 the seller could not have entered into a 21 transaction intending to sell a dividend that 22 it didn't actually have.</p> <p>23 But there are a range of other 24 factors that I've taken into account in 25 arriving at those conclusions. And again,</p>
<p style="text-align: center;">Page 92</p> <p>1 it's all the facts and circumstances taken 2 together.</p> <p>3 And the regulatory status and 4 market conduct rules that apply to these 5 transactions were relevant in understanding 6 the facts and circumstances of what actually 7 happened.</p> <p>8 Q Okay. Which regulations are you 9 referring to at the end of that last answer?</p> <p>10 A Well, if you --</p> <p>11 MR. OXFORD: Object to form.</p> <p>12 A If you -- you know, if you want me 13 to go back through my report and identify all 14 the regulations that I've considered in 15 arriving at my conclusions, I'm happy to do 16 that. But I've -- you know, at various 17 points I've discussed, you know, market 18 conduct regulations, transaction reporting 19 regulations, you know, short-selling 20 regulations, Prudential capital regulations.</p> <p>21 There's a wide range -- because you 22 have to understand the nature of the, you 23 know, what the counterparties could and 24 couldn't have done, and how sophisticated 25 financial institutions transact with each</p>	<p style="text-align: center;">Page 93</p> <p>1 other. 2 So all of those are relevant in 3 terms of understanding what the nature of the 4 securities transactions between the cum ex 5 seller and ED&amp;F Man was.</p> <p>6 Q Mr. Wade, respectfully, I'm asking 7 you specifically about the securities 8 contract.</p> <p>9 Can you identify for me one example 10 of a regulation that you're aware of that 11 dictates whether or not a securities contract 12 intends or does not intend to confer a right 13 to a dividend on a buyer?</p> <p>14 MR. OXFORD: Objection, asked and 15 answered.</p> <p>16 A And I'm respectfully telling you 17 that your question is misplaced. Because in 18 order to understand the nature of the 19 transaction between the two counterparties, 20 one needs to understand all the facts and 21 circumstances and what's the regulatory 22 status, what the market conduct rules were.</p> <p>23 And for all the reasons I have 24 given in my report, it is clear to me that 25 the transactions were not intended to deliver</p>

CONFIDENTIAL  
Graham Wade – March 16, 2022

25 (Pages 94 to 97)

Page 94	Page 95
<p>1 a real dividend to the pension plan because 2 there were no shares and there were 3 no -- there were no real dividends to pass 4 on.</p> <p>5 So -- but that requires a full 6 understanding of all the facts and 7 circumstances, which includes all the 8 regulations I've cited to in my report.</p> <p>9 Q Okay. And so you've outlined a 10 number of ED&amp;F Man transactions in the 11 context of your report.</p> <p>12 For any of those ED&amp;F transactions, 13 can you identify any regulation that is 14 relevant to whether the terms of the 15 securities contract between ED&amp;F and its 16 counterparty did or did not intend to confer 17 the right to a dividend?</p> <p>18 MR. OXFORD: Object to the form.</p> <p>19 A As I've said, my job is to 20 understand all the facts and circumstances 21 around each of the transactions that I've 22 looked at, and understand the nature of how 23 they executed those transactions, how they 24 hedged them, how they priced them, what the 25 relevant regulations that applied to the</p>	<p>1 counterparties were, and for all the reasons 2 I have given in my report.</p> <p>3 It is clear to me that the nature 4 of those transactions were that they 5 were -- that they did not deliver dividends 6 to the pension plans.</p> <p>7 Q So the answer to my question is 8 "no?"</p> <p>9 MR. OXFORD: Object to the form.</p> <p>10 A I don't actually remember what your 11 previous question was, but I don't think my 12 answer was "no."</p> <p>13 But maybe you can remind me what 14 the previous question was.</p> <p>15 Q I asked you, given that you've 16 outlined a number of ED&amp;F Man transactions in 17 the context of your report, whether, for any 18 of those transactions, you can identify any 19 single regulation that is relevant to whether 20 the terms of the securities contract between 21 ED&amp;F and its counterparty did or did not 22 intend to confer a right to a dividend?</p> <p>23 MR. OXFORD: Objection, asked and 24 answered.</p> <p>25 A And my response to that is that in</p>
<p>1 order to arrive at my conclusion about what 2 the nature of the transactions were between 3 the cum ex sellers and the pension plans, I 4 need to understand the full facts and 5 circumstances. And that includes the 6 regulatory rules that applied to the various 7 counterparties and market conduct 8 regulations.</p> <p>9 And that is all as detailed in my 10 report.</p> <p>11 Q And that's your complete answer to 12 the question that I asked?</p> <p>13 MR. OXFORD: Object to the form.</p> <p>14 A Yeah, I think I've been clear on 15 what my answer to the question is.</p> <p>16 Q All right. If ED&amp;F were to take 17 the position in this litigation that "a share 18 is acquired or disposed of at the time when a 19 final and binding agreement exists on the 20 acquisition or disposal of the share," would 21 you agree with that?</p> <p>22 MR. OXFORD: Objection to the form.</p> <p>23 A Sorry? If ED&amp;F Man were to take 24 what position?</p> <p>25 Q The position in this litigation</p>	<p>1 that "a share is acquired or disposed of at 2 the time when a final and binding agreement 3 exists on the acquisition or disposal of the 4 share," would you agree with that?</p> <p>5 MR. OXFORD: Object to the form.</p> <p>6 A And for what? In what context?</p> <p>7 Q I'm asking you, as a general 8 principle of securities trading, whether or 9 not you would agree with the principle that 10 "a share is acquired or disposed of at the 11 time when a final and binding agreement 12 exists on the acquisition or disposal of the 13 share?"</p> <p>14 MR. OXFORD: Objection to the form.</p> <p>15 A Well, there's a number of terms in 16 that question that would need to be a bit 17 more precisely defined. For example, for 18 what purpose do you mean "disposed" and what 19 do you mean by "disposed?"</p> <p>20 So I -- I don't think I'm able to 21 agree with that or necessarily disagree with 22 it.</p> <p>23 Q Okay. Would you agree or disagree 24 with the principle that "the ownership right 25 in the share is transferred at the time that</p>

CONFIDENTIAL  
Graham Wade – March 16, 2022

26 (Pages 98 to 101)

Page 98	Page 99
<p>1 a final and binding agreement exists on the 2 acquisition or sale of the share?" 3                   MR. OXFORD: Object to the form. 4                   A No, I wouldn't. Again, I wouldn't 5 agree with that one because I don't think 6 that's right in terms of when ownership 7 rights associated with shares do change 8 hands. 9                   But I would also ask you to be a 10 bit more precise in defining what you mean by 11 "ownership rights." 12                   Q Would you agree with the principle 13 that "a buyer of a share owns the share at 14 the time when a final and binding agreement 15 exists on the acquisition of the share?" 16                   MR. OXFORD: Object to the form. 17                   A No. 18                   Q Would you agree with that statement 19 if I told you that that principle is being 20 advanced by me in the context of Danish tax 21 law? 22                   MR. OXFORD: Object to the form. 23                   A I think, as I've stated earlier, 24 I'm not expressing opinions as to Danish tax 25 law. So I would -- I would not have an</p>	<p>1 opinion on that question as it relates to 2 Danish tax law. 3                   Q Okay. Would you agree that when a 4 final and binding agreement to acquire a 5 share exists, that the buyer is therefore the 6 only person liable to taxation in respect to 7 any dividend that's received? 8                   MR. OXFORD: Object to the form. 9                   A Well, firstly, the -- you need to 10 define the circumstances that relate to that, 11 what tax jurisdiction you're talking about, 12 what the circumstances of the trade are. 13                   And so, on its face, I can't really 14 answer that. 15                   Q Okay. If I specify Denmark as a 16 jurisdiction, would that help you? 17                   MR. OXFORD: Object to the form. 18                   A Well, then, I'm not here to 19 express, and I don't believe I've expressed 20 any opinions in my reports as to Danish tax 21 law and how that would apply to any 22 particular transaction. 23                   Q How about on securities 24 transactions in Denmark? Do you consider 25 yourself to be expressing an opinion on</p>
<p style="text-align: center;">Page 100</p> <p>1 securities transactions in Denmark? 2                   MR. OXFORD: Object to the form. 3                   A I considered myself to be 4 expressing all the opinions that are 5 contained in my report on the terms in which 6 they're expressed on my report and based on 7 the bases included in my report. 8                   Q Do you consider any of those 9 opinions in your report to be regarding 10 securities transactions in Denmark? 11                   MR. OXFORD: Object to the form. 12                   A I -- the -- obviously, the shares 13 in the transaction are Danish shares. But 14 the opinions that I have expressed relate to 15 the facts and circumstances and are given on 16 the terms in which they're given in my report 17 taken as a whole. 18                   Q And so you're not expressing any 19 opinions on your report on securities 20 transactions in Denmark? 21                   MR. OXFORD: Object to the form. 22                   A That's not what I said. 23                   Q So I'm asking you, then, why it 24 matters whether or not jurisdiction -- what 25 jurisdiction you're in affects when a final</p>	<p style="text-align: center;">Page 101</p> <p>1 and binding agreement exists to buy a share, 2 whether the only person liable to tax is the 3 buyer? 4                   MR. OXFORD: Object to the form. 5                   A Well, your question earlier was 6 whether I have an opinion on the tax 7 treatment of a contract in an entirely 8 hypothetical situation. And my answer was 9 that on that hypothetical situation, I'm not 10 expressing an opinion as to Danish tax law. 11                   Q Okay. Would you agree that 12 VP Securities, as Denmark's CSD, has an 13 obligation to pay a dividend to shareholders 14 in Denmark? 15                   A I understand that for listed 16 companies in Denmark whose shares are 17 registered with VP Securities, that 18 VP Securities is involved in the process of 19 passing dividends to the relevant recipient. 20                   Q Sorry. One second. 21                   Do you understand anything about 22 what VP Securities' involvement in paying a 23 dividend to holders of Danish shares that are 24 listed on Danish exchanges is? 25                   MR. OXFORD: Objection to form.</p>

CONFIDENTIAL  
Graham Wade – March 16, 2022

27 (Pages 102 to 105)

Page 102	Page 103
<p>1       A    I'm sorry -- sorry to do this, but 2 right at the end of your question, it broke 3 up, so I didn't hear the end of the question. 4       Can you repeat it again? 5       Q    No problem. If you ever need me to 6 repeat a question, I'm happy to do that. 7           Do you understand anything about 8 what VP Securities' involvement in paying a 9 dividend to holders of Danish shares that are 10 listed on Danish exchanges is? 11       MR. OXFORD: Object to the form. 12       A    Well, as I've said, it is my 13 understanding that VP Securities maintains 14 the ultimate share register. And so, at the 15 point in time, i.e. the record date, it is 16 VP Securities who ultimately confirms the 17 underlying record holders and will therefore 18 be involved in directing the payment from the 19 issuing company to those record holders. 20       Obviously, in many cases, those 21 record holders will be a custodian or 22 sub-custodian. So VP Securities is not the 23 only person involved in that process, but 24 they do have an important role in there. 25       Q    Okay. And do you understand that</p>	<p>1   VP Securities satisfied its role to direct 2 the dividends to the proper party if it paid 3 the amount of the dividends to the person on 4 the register? 5       MR. OXFORD: Object to the form. 6       A    I understand that from the issues 7 perspective, it pays the dividend to the 8 holders of record as determined by 9 VP Securities. But that may not necessarily 10 be the end of the process, because, as I 11 said, there's other -- they'd most likely be 12 custodians, sub-custodians, and a number of 13 other things involved in the overall process. 14       Q    Okay. And you would agree with the 15 fact that the person on the register is not 16 necessarily the person who ultimately had the 17 right to receive the dividend? 18       MR. OXFORD: Object to the form. 19       A    Yeah, I'd agree with that, yeah. 20       Q    Okay. And would you agree with the 21 fact that where the person on the register 22 was not the one who ultimately had the right 23 to receive the dividend, that the person to 24 whom VP Securities paid the dividend would 25 have received it on behalf of the actual</p>
<p style="text-align: center;">Page 104</p> <p>1 legal owner of the shares? 2       MR. OXFORD: Object to the form. 3       A    That requires making a series of 4 assumptions about who the holder on 5 the -- who the holder of record actually was, 6 and what their -- what are all the 7 circumstances surrounding that particular 8 holder of record. 9           But as I've said, in general, it 10 would typically be a custodian or 11 sub-custodian who was the holder of record at 12 the level of VP Securities. And so one would 13 need to fully understand in what capacity the 14 custodian is holding those shares in order to 15 determine what happens once the payment gets 16 to that custodian. 17       Q    Okay. Would you agree with the 18 principle that the legal owner of the shares 19 is the one who ultimately receives the 20 dividends, who's liable to taxation on the 21 dividend, and who's suffered WHT? 22       MR. OXFORD: Object to the form. 23       A    There's such a wide-ranging number 24 of terms in that. And it's so general that, 25 no, I would not agree as a general --</p>	<p style="text-align: center;">Page 105</p> <p>1 that -- on the grounds that I don't really 2 know what the question is. 3       Q    Okay. Let me break it down so it's 4 a little more clear. 5           Would you agree that it's the legal 6 owner in Denmark who's considered to have 7 received the dividend? 8       MR. OXFORD: Objection to form. 9       A    Again, you need to be more precise. 10 I don't know what "legal owner" means. I 11 don't know what -- received for what purpose. 12           There are a number of terms in 13 there that you'll need to be more precise on. 14       Q    What's your understanding of what 15 the "legal owner" of a security means? 16       MR. OXFORD: Object to the form. 17       A    Again, legal owner for what 18 purpose? 19       Q    Legal owner for the purposes of 20 owning Danish shares. 21       MR. OXFORD: Object to form. 22       A    I -- I'm not trying to be difficult 23 but I don't understand that question. 24           You can have tax legal owner, you 25 can have nominee legal owner, you can</p>

CONFIDENTIAL  
Graham Wade – March 16, 2022

28 (Pages 106 to 109)

<p style="text-align: right;">Page 106</p> <p>1 have -- you know, there are a whole range of 2 different forms of legal ownership. 3 So I need you to be a bit more 4 precise.</p> <p>5 Q Okay. Is it your understanding 6 that what it means to own a share depends on 7 the legal circumstances in which you're 8 asking that question?</p> <p>9 MR. OXFORD: Objection to form.</p> <p>10 A Again, the question of what 11 ownership means for the particular purposes 12 in which that question's asked, I need to 13 know what purposes it's asked, and all the 14 facts and circumstances that surround that 15 particular share.</p> <p>16 So if you give me a specific 17 example, I can give you my thoughts.</p> <p>18 Q Is it your testimony that you're 19 unable to tell me, as a general principle, 20 what it means to be a legal owner of a share 21 in Denmark?</p> <p>22 MR. OXFORD: Objection.</p> <p>23 A What I'm saying is that over the 24 course of my career I spent a long time and I 25 understand that the question you're asking me</p>	<p style="text-align: right;">Page 107</p> <p>1 can be a much more complex question than it 2 appears because it requires understanding the 3 exact facts and circumstances, for what 4 purpose, i.e., you know, is it tax, is it 5 accounting, is it regulation, is it, you 6 know, record holder from the issuer's 7 perspective?</p> <p>8 There's a range of different ways 9 in which one can think about who the owner of 10 a share is. And without the full facts and 11 circumstances and the specifics and for what 12 purpose the question is being asked, I -- I 13 can't answer it.</p> <p>14 Q Is it your understanding that the 15 legal owner of a share can be a different 16 person in different circumstances?</p> <p>17 MR. OXFORD: Objet to the form.</p> <p>18 A It would be highly unusual if a 19 given share for the same -- going back to my 20 point about there are different 21 purposes -- if we're talking about a specific 22 definition of "ownership," in my experience, 23 it would be highly unusual if two people can 24 be the same owner of the share for the same 25 purpose.</p>
<p style="text-align: right;">Page 108</p> <p>1 Q What about whether two people can 2 be the same owner of the share for different 3 purposes?</p> <p>4 MR. OXFORD: Sorry. Just let me -- 5 let me get my objection in, please, 6 Mr. Wade.</p> <p>7 So can you just repeat that 8 question, Greg?</p> <p>9 MR. PRUDEN: Yeah. There was an 10 error in my question anyway, so let me 11 re-ask it.</p> <p>12 Q What about whether two people can 13 be the owner of the same share for different 14 purposes?</p> <p>15 MR. OXFORD: Objet to the form.</p> <p>16 A That's possible, yeah.</p> <p>17 Q Okay. What's your understanding 18 that the owner can be a different person in 19 different circumstances based on?</p> <p>20 MR. OXFORD: Objet to the form.</p> <p>21 A My -- over the course of my career, 22 you know, as I said, you've got accounting 23 regulation, you've got nominee ownership. It 24 is possible and I've seen instances over the 25 course of my career where the owner for one</p>	<p style="text-align: right;">Page 109</p> <p>1 of those can be different from another owner.</p> <p>2 Q Can you give me an example?</p> <p>3 A Yeah. So for accounting purposes, 4 you know, I mean, in most cases, the nominee 5 owner is the custodian taking Danish 6 securities. The custodian registered with 7 VP Securities would be the nominee owner for 8 accounting purposes.</p> <p>9 It's quite unlikely that that 10 person is the accounting owner of the shares. 11 It's possible they are, but it's unlikely.</p> <p>12 Q Okay. You use the word "owner" a 13 lot, but you didn't really refer to a legal 14 owner. Just let me re-ask the question.</p> <p>15 Is it your testimony that the 16 accounting owner of a share is equivalent to 17 being a legal owner of a share?</p> <p>18 MR. OXFORD: Objet to the form.</p> <p>19 A It depends -- again, it depends for 20 what purpose and what your definition of 21 "legal owner" of a share is, which I don't 22 know what you mean.</p> <p>23 So I can't really answer that 24 question.</p> <p>25 Q Okay. Would you agree with the</p>

CONFIDENTIAL  
Graham Wade – March 16, 2022

32 (Pages 122 to 125)

Page 122	Page 123
<p>1       <b>Q</b>   I will ask you a slightly different 2 question. 3            Can you tell me when the legal 4 ownership in a share transfers from the 5 seller to the buyer in a normal securities 6 transaction? 7            <b>MR. OXFORD:</b> Object to the form. 8        <b>A</b>   And what -- again, what do you mean 9 by "legal ownership" and what do you mean by 10 "normal securities transaction?" 11       <b>Q</b>   Can you tell me -- I will ask 12 again -- when legal ownership transfers from 13 the seller to the buyer in any securities 14 transaction? 15       <b>MR. OXFORD:</b> Did you say in any 16 securities transaction? 17       <b>MR. PRUDEN:</b> Any securities 18 transaction. 19       <b>MR. OXFORD:</b> Okay. Object to form. 20       <b>A</b>   And again, what do you mean by 21 "legal ownership?" 22       <b>Q</b>   So, am I understanding you to be 23 saying here that you don't understand what it 24 means to legally own a security? 25       <b>MR. OXFORD:</b> Object to the form.</p>	<p>1           Asked and answered. 2       <b>A</b>   I'm saying, and I think it's been 3 my consistent response, that "legal 4 ownership" can mean a number of different 5 things in a number of different contexts, and 6 that without the context or precision on 7 exactly for what purpose you're asking it, I 8 can't answer that. 9           So if you want to give me a very 10 specific example of a trade, and then a very 11 specific definition of what you mean by 12 "legal ownership," I will do my best to 13 answer it. 14       <b>Q</b>   In the transactions that you 15 analyzed in this case, when did the buyer of 16 the shares become the owner of the shares? 17       <b>MR. OXFORD:</b> Object to the form. 18       <b>A</b>   It's the same point. For what 19 purpose do -- what do you mean by "owner?" 20       <b>Do you mean nominee owner? Do you mean accounting</b> 21 <b>owner?</b> 22       <b>There are lots of different</b> 23 <b>definitions.</b> 24       <b>Q</b>   Is it your testimony you can't tell</p>
<p>1       me what it means to be an owner of a share? 2       <b>MR. OXFORD:</b> Objection, asked and 3       answered. 4       <b>A</b>   It is my testimony that in order to 5 answer that question, I need to understand 6 the context in which you're asking that 7 question, and all the facts and circumstances 8 surrounding that particular transaction. 9       <b>Q</b>   Okay. And so you have no general 10 definition available to you of what it means 11 to be the owner of a share? 12       <b>MR. OXFORD:</b> Objection to form. 13       <b>A</b>   My position is, as I've explained 14 earlier, that over the course of my career 15 working in structured finance, I'm well aware 16 that what it means to be the owner of a 17 security can take a number of different 18 meanings, and that precision is required. 19       And like I said, if you give me a 20 precise set of facts and a precise definition 21 of what you mean by the particular type of 22 ownership, I will do my best to answer it. 23       <b>Q</b>   Okay. For the purposes of making a 24 tax application in Denmark, in the 25 transactions that you analyzed in this case,</p>	<p>1       when did the buyer of the shares become the 2 legal owner of the shares? 3       <b>A</b>   I'm really sorry, that -- sorry. I 4 just didn't catch that question. 5       The sound has been a bit worse 6 since we've restarted again. I don't know if 7 that's -- that's the only change. 8       Sorry, but could you repeat the 9 question? 10       <b>Q</b>   Yes. For the purposes of making a 11 tax reclaim application in Denmark, in the 12 transactions that you analyzed in this case, 13 when did the buyer of the shares become the 14 owner of those shares? 15       <b>MR. OXFORD:</b> Object to the form. 16       <b>A</b>   I don't believe I've given an 17 opinion as to the requirements for when or 18 what exactly is required to make a tax 19 reclaim. 20       My opinions relate to the fact that 21 if we go back to the tax vouchers, there are 22 three key facts in the tax vouchers. 23 Number 1, that the pension plans held shares; 24 Number 2, that they received dividends; and 25 Number 3, that they suffered tax.</p>

CONFIDENTIAL  
Graham Wade – March 16, 2022

33 (Pages 126 to 129)

<p style="text-align: right;">Page 126</p> <p>1           And my opinions are fundamentally 2 that those three statements are false. But I 3 have offered no opinion as to, you know, what 4 the Danish tax consequences of -- as a result 5 of that are.</p> <p>6           <b>Q</b>    Okay. Well, you said that -- you 7 told me in response to a question that I 8 asked you, Mr. Wade, whether and in what 9 context I was using the term "ownership" 10 would inform your answer to my question.</p> <p>11           I'm not asking you about opinions 12 that you provided or not. What I'm asking 13 you right now is whether you understand that 14 for the purpose of making a tax reclaim in 15 Denmark, when, in a securities transaction, 16 the ownership would transfer from the seller 17 to the buyer?</p> <p>18           MR. OXFORD: Object to the form.</p> <p>19           <b>A</b>    And my response is that given the 20 opinions that I gave and the fact that I am 21 not giving opinions on Danish tax law, I have 22 not given an opinion on the question of what 23 the precise conditions required are to obtain 24 a Danish tax reclaim.</p> <p>25           But it's my opinion that the three</p>	<p style="text-align: right;">Page 127</p> <p>1           key pieces of information on the tax voucher, 2 which I understand to have formed a very 3 important part of that tax group claim, in my 4 opinion, and based on my review, and for all 5 the reasons given in my report, that 6 information is false. So it seems highly 7 unlikely to me that that would mean that the 8 person is the owner for Danish tax purposes. 9           But that is not something I've 10 expressed an opinion on.</p> <p>11           <b>Q</b>    Okay. For the purposes of 12 determining whether a payment made from a 13 seller to a buyer in reference to a dividend 14 is a dividend or a manufactured dividend, 15 when do you understand that legal ownership 16 transfers in a securities transaction from 17 the seller to the buyer?</p> <p>18           MR. OXFORD: Object to the form.</p> <p>19           <b>A</b>    I just don't think that's a 20 question that makes sense on its own terms. 21 A -- as I think I defined in my report, a 22 dividend compensation payment is a 23 contractual payment that arises under a 24 transfer -- a contract for the transfer of 25 securities.</p>
<p style="text-align: right;">Page 128</p> <p>1           So I -- I don't think that your 2 question makes sense on its own terms.</p> <p>3           <b>Q</b>    Okay. Well, that's your 4 understanding of the definition of 5 "manufactured dividends?"</p> <p>6           <b>A</b>    Amongst other things, and, as laid 7 out in my reports, extensive experience over 8 the course of my career in understanding 9 equity finance transactions.</p> <p>10           <b>Q</b>    What is the definition of 11 "manufactured dividends?"</p> <p>12           <b>A</b>    I think -- I think I just gave a 13 definition which is, I believe, the one I 14 used in my report, which is it's a 15 contractual payment representative of a 16 dividend that arises under a contract for the 17 transfer of securities.</p> <p>18           That, I think, is the generally 19 accepted definition based on my market 20 practice.</p> <p>21           <b>Q</b>    And what determines whether a 22 payment that's representative of a dividend 23 is, itself, a dividend or a manufactured 24 dividend?</p> <p>25           MR. OXFORD: Object to form.</p>	<p style="text-align: right;">Page 129</p> <p>1           <b>A</b>    Well, I think -- I don't -- I don't 2 really understand that question because my -- 3 under my definition, which I think is the -- 4 well, I know, based on my market practice, is 5 the accepted market definition of a dividend 6 compensation payment -- a dividend 7 compensation payment is a contractual payment 8 made under the contract for transfer of 9 securities.</p> <p>10           So it's definitionally not a 11 dividend.</p> <p>12           <b>Q</b>    Okay. So your testimony is that a 13 payment that's made from the seller to a 14 buyer of securities can never represent a 15 real dividend?</p> <p>16           MR. OXFORD: Object to the form, 17 misstates his testimony.</p> <p>18           <b>A</b>    That's -- that's not what I said.</p> <p>19           <b>Q</b>    Okay. Is it your testimony that a 20 contractual payment that represents a 21 dividend from the seller to a buyer of shares 22 is always a manufactured dividend?</p> <p>23           MR. OXFORD: Object to the form.</p> <p>24           <b>A</b>    I don't think I said that. I 25 defined -- I gave my definition, which is the</p>

CONFIDENTIAL  
Graham Wade – March 16, 2022

34 (Pages 130 to 133)

<p style="text-align: right;">Page 130</p> <p>1 generally accepted market definition, that a 2 dividend compensation payment -- or a 3 manufactured dividend, if you prefer that -- 4 is a contractual payment made under contract 5 for the transfer of securities.</p> <p>6 Q Okay. And can that ever be 7 considered a real dividend?</p> <p>8 MR. OXFORD: Object to the form.</p> <p>9 A For what purpose?</p> <p>10 Q For the purposes of determining 11 whether the payment received is a dividend?</p> <p>12 MR. OXFORD: Object to the form.</p> <p>13 A Well, my understanding of the term 14 "dividend" is a dividend is a payment from an 15 issuing company made to a shareholder in 16 respect of that person's being the owner of 17 shares in a company.</p> <p>18 So, in that sense, a dividend and a 19 manufactured dividend, as I've previously 20 just defined them and are included in my 21 report, cannot be the same thing under 22 those -- as defined for those purposes.</p> <p>23 Q Okay. Well, how do you determine 24 whether somebody is the owner of shares in a 25 company?</p>	<p style="text-align: right;">Page 131</p> <p>1 MR. OXFORD: Object to the form. 2 A Again, I'm going to ask you to 3 define for what purpose. 4 Q Mr. Wade, I'm using your words. 5 You told me a second ago that your 6 understanding of the term "dividend" is "a 7 dividend is a payment from an issuing company 8 made to a shareholder in respect of that 9 person being an owner of shares in a 10 company."</p> <p>11 What do you mean when you say that 12 the person is the "owner of shares in a 13 company" in that context?</p> <p>14 A Okay. In that particular context, 15 I mean that the person is the -- in whatever 16 format that particular -- depending on the 17 articles of association of that company and 18 whatever form the register is held, that that 19 person is, at the time when the dividend 20 right accrues, i.e., the record date, that 21 person is the record holder on the company's 22 share register, and that the issuing company 23 pays the dividend to.</p> <p>24 Q Okay. So if you are not on the 25 share register, you are not the owner of the</p>
<p style="text-align: right;">Page 132</p> <p>1 shares. 2 Is that your testimony? 3 MR. OXFORD: Object to the form. 4 A No, that's a -- that's completely 5 different because you've expanded my -- I 6 said for the purposes of knowing -- in 7 defining "dividend," I have defined 8 "shareholder" in the way I just defined it. 9 I didn't say anything about who the 10 owner of the shares is, because that could 11 mean -- depending on what the context is and 12 what circumstances are, "owner" is a very 13 broad term that can mean all kinds of things. 14 Q Okay. And so, for the purposes of 15 determining who receives a dividend, the 16 owner is synonymous with the person on the 17 share register. 18 Is that your testimony? 19 MR. OXFORD: Object to the form, 20 asked and answered. 21 A You asked me to define "dividend." 22 I defined it as being -- in the way that I 23 did. 24 And then that requires -- the 25 dividend is paid by the issuing company to</p>	<p style="text-align: right;">Page 133</p> <p>1 the shareholder of record on the record date, 2 and the shareholder of record is the person 3 who, in whatever format the shareholder 4 registry is maintained, is the person who is 5 on the record at that time. 6 That was the purpose -- that is a 7 definition in which I've defined "dividend," 8 and for those purposes, that's what I mean by 9 "shareholder." 10 Q I asked you about the definition of 11 "owner." I'm asking you whether the 12 definition of "owner," for the purposes of 13 determining whether you received a dividend, 14 is synonymous with the person on the share 15 register? 16 MR. OXFORD: Objection. 17 A And I did not give a general 18 definition of "owner." You asked me for a 19 definition of "dividend" which I gave. 20 And for those purposes, the owner 21 of the shares is the person who's on the 22 register, but only for those purposes. Maybe 23 for other purposes as well, but I'm just 24 being very precise on -- as I said, you know, 25 across the course of my career, I have</p>

CONFIDENTIAL  
Graham Wade – March 16, 2022

35 (Pages 134 to 137)

Page 134	Page 135
<p>1 learned that it's very important that the 2 definition of "owner," "legal owner," all 3 these kind of terms can have a number of 4 different meanings in different contexts. 5 So I'm just trying to be very 6 precise.</p> <p>7 Q Okay. So your definition of who 8 receives a dividend is the person on the 9 share register?</p> <p>10 Full and final answer?</p> <p>11 MR. OXFORD: Object to the form.</p> <p>12 A I think I actually defined 13 "dividend" as being a payment by the issuer 14 company. That was -- that was what I was 15 defining.</p> <p>16 And the issuer company pays it to 17 the person who is on the shareholder register 18 at the date of record that the company 19 determines the dividend will be paid.</p> <p>20 Q Okay. I'm asking you, for the 21 purposes of determining who is deemed to have 22 received a dividend, what determines who is 23 the owner of the share on which the dividend 24 is paid?</p> <p>25 MR. OXFORD: Object to form.</p>	<p>1 A I'm sorry, but you just introduced 2 the word "deemed" there, so deemed for what 3 purpose? What's the context? What's the 4 transaction?</p> <p>5 I just -- my experience over many 6 years involved in structured finance 7 transactions is that precision is required. 8 And so, if you give me precision, I will do 9 my best to answer.</p> <p>10 Q Okay. I want to go back to what 11 you told me again, and that's that "the 12 dividend is a payment from an issuing company 13 made to a shareholder in respect to that 14 person being an owner of shares in a 15 company."</p> <p>16 I'm asking you whether being an 17 owner of shares in a company in that context 18 is synonymous with being on the share 19 register?</p> <p>20 MR. OXFORD: Object to the form.</p> <p>21 A For the purpose -- in the way I 22 defined what a dividend is, the dividend is a 23 payment made by the issuing company to the 24 person -- we can call them the owner for 25 these purposes -- who is on the shareholder</p>
<p style="text-align: center;">Page 136</p> <p>1 register on the record date. 2 So, for these purposes, "owner" 3 means the person on the shareholder register. 4 But "owner" in any other context may well 5 have a completely different meaning.</p> <p>6 Q Okay. And for these purposes, when 7 does the person who is considered to be the 8 owner -- using your definition 9 again -- become the owner?</p> <p>10 MR. OXFORD: Object to the form.</p> <p>11 A It would depend on the full details 12 of the article of association of the company 13 and exactly how it works. But in simple 14 terms, it would be when whoever the registrar 15 for the company is puts that person onto the 16 shareholder register as being the current 17 owner of that share.</p> <p>18 Q Do you reference the details of the 19 articles of association of any of the Danish 20 issuers whose transactions you analyzed in 21 this case?</p> <p>22 MR. OXFORD: Object to the form.</p> <p>23 A No, but that's not necessary in the 24 context of understanding these particular 25 transactions because, first of all, the</p>	<p style="text-align: center;">Page 137</p> <p>1 specific definition that we've been talking 2 about I don't think is actually relevant to 3 any of my opinions.</p> <p>4 And secondly, it's my 5 understanding, based on a combination of 6 market practice and the documents I've 7 reviewed in this case, that the nominee 8 holder of a share on the record date is 9 determined by VP Securities and what register 10 they maintain, which is the ultimate and only 11 record of who the nominee holder of the share 12 is, but purely for the purposes of defining 13 who the issuing company pays a dividend to.</p> <p>14 Q Okay. Have you reviewed any 15 documents in this case that would indicate to 16 you who was the owner of a share?</p> <p>17 MR. OXFORD: Object to the form.</p> <p>18 A I'm sorry, but you're just using 19 the phrase "owner," and I think I've been 20 clear that unless you're precise about what 21 you mean by ownership, I can't give an answer 22 to that.</p> <p>23 Q Okay. As a matter of general 24 English, have any documents you've reviewed 25 in this case offered you any opinion on who</p>

CONFIDENTIAL  
Graham Wade – March 16, 2022

38 (Pages 146 to 149)

Page 146	Page 147
<p>1 this deposition?</p> <p>2                   MR. OXFORD: Object to the form.</p> <p>3                   A Yeah. So amongst the other</p> <p>4 reasons, and the full reasons are given in my</p> <p>5 report, the pricing clearly indicates that</p> <p>6 the cum ex sellers were not transferring a</p> <p>7 real dividend.</p> <p>8                   And it's further my view that on</p> <p>9 all the facts and circumstances that are</p> <p>10 relevant to me reaching my decision, there</p> <p>11 are no -- there are no particularly</p> <p>12 meaningful differences between the non-annex</p> <p>13 E cum ex transactions and the annex E cum ex</p> <p>14 transactions other than in the case of the</p> <p>15 annex E cum ex transactions, MPT Dubai, it</p> <p>16 was an internal IDB, and in the non-annex E</p> <p>17 cum ex transactions, it was an external IDB.</p> <p>18                   That -- and that's the -- you know,</p> <p>19 there are other -- there are other facts and</p> <p>20 circumstances that I have taken into account,</p> <p>21 but that's the essence of why I don't think</p> <p>22 there's any meaningful difference between the</p> <p>23 two types of transaction, in addition to the</p> <p>24 share recycling.</p> <p>25                   Q Okay. So is it your -- withdrawn.</p>	<p>1 Okay.</p> <p>2                   So you've given what are the</p> <p>3 reasons why you believe that dividends were</p> <p>4 not received, the pricing of the shares that</p> <p>5 ED&amp;F acquired, your belief that the shares</p> <p>6 were recycled in the annex E transactions,</p> <p>7 and that the annex E and the non-annex E</p> <p>8 transactions had similar characteristics.</p> <p>9                   Is that correct?</p> <p>10                  MR. OXFORD: Object to the form.</p> <p>11                  A I think what I said is that they</p> <p>12 were amongst the reasons that I had reached</p> <p>13 the opinions I reached in my report. But the</p> <p>14 full work that I did and the reason I reached</p> <p>15 my opinions are as laid out in my report.</p> <p>16                  I'm happy -- if you want to discuss</p> <p>17 other aspects, I'm happy to.</p> <p>18                  Q Are there any other reasons that</p> <p>19 you can tell me as you sit here today?</p> <p>20                  MR. OXFORD: Object to the form.</p> <p>21                  A Well, at some level, my entire</p> <p>22 report and all the work I've done is what led</p> <p>23 me to arrive in my overall opinions that, A,</p> <p>24 the annex E and non-annex E are fundamentally</p> <p>25 the same in all relevant aspects, and B, that</p>
<p style="text-align: center;">Page 148</p> <p>1 the tax vouchers were issued, were issued in</p> <p>2 respect of shares which were not held because</p> <p>3 they were recycled, and dividends were not</p> <p>4 received, and no tax was suffered.</p> <p>5                  So -- but it's the cumulative</p> <p>6 volume of work that was contained in my</p> <p>7 report and the documents that I've used that</p> <p>8 allow me to arrive at those opinions.</p> <p>9                  Q And you can't tell me more</p> <p>10 specifically, in any more detail, what</p> <p>11 allowed you to arrive at those opinions?</p> <p>12                  MR. OXFORD: Object to the form.</p> <p>13                  A I'm very happy to go through any of</p> <p>14 the particular bases of opinion that are laid</p> <p>15 out in my reports, but it is the culmination</p> <p>16 of all of those taken together that has led</p> <p>17 me to arrive at my opinions.</p> <p>18                  Q Okay. And that's -- go ahead.</p> <p>19                  MR. OXFORD: Sorry, Mr. Wade. Were</p> <p>20 you finished with your answer?</p> <p>21                  A Sorry. I was just going to say if</p> <p>22 there's a specific basis or anything in the</p> <p>23 opinion that you'd like me to focus on, I'm</p> <p>24 happy to talk about it.</p> <p>25                  Q Okay. That's your complete answer</p>	<p style="text-align: center;">Page 149</p> <p>1 to my question, "Are there any other reasons</p> <p>2 that you can tell me as you sit here today?"</p> <p>3                  MR. OXFORD: Object to the form,</p> <p>4 asked and answered.</p> <p>5                  A Yeah. My answer to that question</p> <p>6 is that all the reasons are contained across</p> <p>7 my three reports, and that if you want to</p> <p>8 discuss any of those specific reasons, I'm</p> <p>9 very happy to.</p> <p>10                 Q Okay. But I would have to direct</p> <p>11 you to the portion of the report to do that?</p> <p>12                 MR. OXFORD: Object to the form.</p> <p>13                 A Well, I think I've already given</p> <p>14 you some of the key reasons. But all the</p> <p>15 reasons are contained in my report.</p> <p>16                 Q Okay. And it's your opinion that a</p> <p>17 share has to settle by the record date in</p> <p>18 order for the buyer of the share to be</p> <p>19 entitled to a dividend.</p> <p>20                 Right?</p> <p>21                 MR. OXFORD: Objection. Objection</p> <p>22 to the form.</p> <p>23                 A Sorry. Can you repeat that</p> <p>24 question?</p> <p>25                 Q Sure.</p>

CONFIDENTIAL  
Graham Wade – March 16, 2022

39 (Pages 150 to 153)

Page 150	Page 151
<p>1           It's your opinion that a share has 2 to settle by the record date in order for the 3 buyer to be entitled to a dividend. 4           Right? 5           MR. OXFORD: Same objection. 6           A    My answer to that is: It depends. 7           Q    What does it depend on? 8           A    It depends on all the facts and 9 circumstances of the case, who the buyer and 10 seller are, what the nature of the 11 transaction is, how it's settled. 12           All the facts and circumstances. 13           Q    Why does it depend on who the buyer 14 and the seller are? 15           A    Well, because without knowing that, 16 you may not know the nature of the 17 arrangement between the counterparties, where 18 do the shares come from, for what purpose was 19 the buy transaction done, and -- 20           (Whereupon a discussion was held 21 off the record.) 22           MR. OXFORD: Mr. Wade, do you know 23 where you were in your answer? 24           A    I didn't know I was in an answer, 25 actually, so sorry.</p>	<p>1           MR. OXFORD: Mike, would you mind 2 reading back the question and what 3 Mr. Wade got through of his answer 4 before call-in user Number 3 decided to 5 make his or her presence felt? 6           (Whereupon the record was read back 7 by the reporter.) 8           A    I think I'd just add "and all the 9 other facts and circumstances." 10           Q    Okay. Is it your view that in the 11 transactions you analyzed in this case that 12 the transaction date and agreed price terms 13 of the trades that were executed typically 14 indicated that the buyer of securities will 15 receive a dividend? 16           MR. OXFORD: Objection to the form. 17           A    Which -- which transactions are we 18 talking about? Because in each transaction 19 there are buys and sells. 20           So if you give me a specific 21 transaction, I'm happy to -- I'm happy to 22 discuss it. 23           Q    I'm asking you whether it's your 24 view, for cum ex transactions that you 25 analyzed in this case, that the transaction</p>
<p>1           date and agreed price terms typically 2 indicate that the buyer of securities will 3 receive a dividend? 4           MR. OXFORD: Object to the form. 5           A    It's -- it's my position based on 6 market practice and understanding how the 7 equity finance markets work that the -- and I 8 think I've laid this out quite extensively in 9 my report -- that in a cum ex transaction, 10 the whole point of a cum ex transaction is 11 that a -- the seller is not selling the real 12 dividend because they don't have it. 13           So -- but we'd have to get into a 14 very specific cum ex transaction and go 15 through the details of that if you'd like me 16 to give you a more precise answer. 17           Q    Okay. So, as a general matter, 18 it's not accurate that the transaction date 19 and the agreed price terms for the cum ex 20 transactions you analyzed typically indicate 21 that the buyer of the securities will receive 22 a dividend? 23           That's my question. 24           MR. OXFORD: Object to the form. 25           A    In the specific cum ex transactions</p>	<p>1           that I have reviewed, it is my opinion that 2 it is clear that there was no intention to 3 sell a dividend from the cum ex seller to the 4 cum ex buyer, not least of which because the 5 cum ex seller did not, itself, have a 6 dividend to sell. 7           And that's fairly obvious from all 8 the facts and circumstances surrounding the 9 trades, the way they were settled, the way 10 they were priced, and my experience over many 11 years of looking at structured financial 12 transactions. 13           Q    Okay. If the seller in the cum ex 14 transaction did have the right to a dividend, 15 is it the case that the transaction date and 16 the agreed price terms typically indicate 17 that the buyer of the securities would 18 receive the dividend? 19           MR. OXFORD: Object to the form. 20           A    Sorry. What transaction are we 21 talking about? Are we talking about a cum ex 22 transaction? 23           Q    Yes. In the cum ex transactions, 24 if the buyer -- sorry -- if the seller of the 25 shares did have the right to a dividend when</p>

CONFIDENTIAL  
Graham Wade – March 16, 2022

40 (Pages 154 to 157)

Page 154	Page 155
<p>1 it sold the shares, would it be the case that 2 the transaction date and agreed price terms 3 would typically indicate that the buyer of 4 securities will receive the dividend?</p> <p>5 MR. OXFORD: Objection to form.</p> <p>6 A No.</p> <p>7 Q It's not?</p> <p>8 A Sorry?</p> <p>9 Q I just want to confirm -- I tried 10 to confirm that you said it's not the case 11 that the transaction date and the agreed 12 price terms would typically indicate that the 13 buyer would receive a dividend?</p> <p>14 A That's correct. Because the -- the 15 very nature of a cum ex transaction is that 16 what the seller is agreeing to do is to 17 deliver ex-dividend shares, using the 18 definition of cum ex in my report.</p> <p>19 So what the -- what the arrangement 20 is is an arrangement to deliver ex-dividend 21 shares, which, by that point, will not have a 22 right to a dividend attached to them anymore.</p> <p>23 Q Okay. Would it surprise you that 24 someone wrote in your report that you signed 25 that in a cum ex transaction, "the</p>	<p>1 transaction date and agreed price terms 2 typically indicate that the buyer of the 3 securities will receive the dividend?"</p> <p>4 MR. OXFORD: Objection, object to 5 the form. You can answer.</p> <p>6 A Can you -- can you direct me to 7 where in my report it says that?</p> <p>8 Q Yeah, Paragraph 25.</p> <p>9 MR. OXFORD: This is Exhibit 5001, 10 Greg?</p> <p>11 MR. PRUDEN: Yeah. It's the same 12 exhibit we've been on the whole time.</p> <p>13 MR. OXFORD: Oh, I didn't realize 14 we were on an exhibit the whole time.</p> <p>15 A Well, I think if I -- if I read 16 back the whole sentence, it says, "As 17 described more fully below, in a cum ex 18 transaction, the transaction date and agreed 19 price terms typically indicate that the buyer 20 of the securities will receive the dividend, 21 but the settlement cycle is extended, so the 22 buyer of the securities does not receive the 23 shares until after the record date, and so 24 the buyer does not actually receive the 25 dividend."</p>
<p style="text-align: center;">Page 156</p> <p>1 So I don't know what -- I think 2 that's entirely consistent with what I said a 3 few minutes ago.</p> <p>4 Q And your understanding is that the 5 buyer doesn't receive a dividend because the 6 settlement cycle of the shares is extended so 7 the buyer of the securities does not receive 8 the shares until after the record date.</p> <p>9 Is that right?</p> <p>10 MR. OXFORD: Object to form.</p> <p>11 A That's in respect of the overall 12 cum ex transaction. That's not the only 13 reason why I understand that.</p> <p>14 But that is -- that is an important 15 element of that understanding, yes.</p> <p>16 Q Okay. Well, is that the only 17 reason to determine that the buyer doesn't 18 receive a dividend in these transactions you 19 analyzed?</p> <p>20 MR. OXFORD: I'm sorry, Greg. The 21 audio was bad on our end.</p> <p>22 Would you mind repeating the 23 question?</p> <p>24 MR. PRUDEN: Sure.</p> <p>25 Q I asked: Is that a sufficient</p>	<p style="text-align: center;">Page 157</p> <p>1 reason to determine that the buyer doesn't 2 receive a dividend in the cum ex transactions 3 that you analyzed? Is that fact, standing 4 alone, a sufficient reason?</p> <p>5 MR. OXFORD: Objet to the form.</p> <p>6 A I think my -- my conclusions as 7 regards the overall transactions in this case 8 are based on the full facts and 9 circumstances.</p> <p>10 But my point is that the very 11 nature and essence of the design of a cum ex 12 transaction is that it is designed to deliver 13 ex-dividend shares. That is -- that's the 14 fundamental nature of a cum ex transaction.</p> <p>15 So it's almost inherent in what the 16 nature of a cum ex transaction is that it is 17 the seller -- if anyone, the seller may not 18 receive the dividend because they may, like 19 in these transactions, be selling short.</p> <p>20 But it is not the buyer who is 21 going to receive the dividend. That sort of 22 is the whole point of a cum ex transaction.</p> <p>23 That's my -- that's my opinions as 24 in this report and it's also based on, you 25 know, market practice.</p>

CONFIDENTIAL  
Graham Wade – March 16, 2022

41 (Pages 158 to 161)

Page 158	Page 159
<p>1       <b>Q</b>   Okay. And so your opinion in this 2 case is based on the view that all cum ex 3 transactions necessarily involve shares to 4 which there's not a dividend right?</p> <p>5       <b>MR. OXFORD:</b> Objection to form.</p> <p>6       <b>A</b>   Based on the definition of "cum ex" 7 that I've used in my report, that -- yeah.</p> <p>8       <b>Q</b>   Okay. And so that your conclusion 9 relies on your own definition of "cum ex" 10 that you've used in your report?</p> <p>11      <b>A</b>   I don't think it's my -- I don't 12 think it's my own definition. I think it is 13 an accepted market definition of what a 14 cum ex transaction is.</p> <p>15      <b>Q</b>   Okay. And what's your -- what's 16 your basis for your definition in the market 17 of what a cum ex transaction is?</p> <p>18      <b>MR. OXFORD:</b> Object to the form.</p> <p>19      <b>A</b>   Well, I think it's -- you know, 20 based on my experience over the course of my 21 career, the -- it's my understanding that 22 across a wide range of market participants 23 that that is -- if you refer to a cum ex 24 transaction, what people understand that to 25 mean is a transaction where you're going to</p>	<p>1 execute a trade before the trade date, but 2 only deliver ex-dividend shares.</p> <p>3       <b>Q</b>   Okay. And is your only basis for 4 stating that ex-dividend shares were 5 delivered that the shares were delivered 6 after the record date?</p> <p>7       <b>MR. OXFORD:</b> Object to the form.</p> <p>8       <b>A</b>   No, because -- and again, what 9 does -- what does "delivered" mean? That's a 10 slightly imprecise term.</p> <p>11      But in the transactions in this 12 case and for all the reasons given in the 13 report, including the way they were 14 settled -- the pricing, who the 15 counterparties were, the nature of all the 16 arrangements -- it is clear to me that what 17 the parties intended to do was have a 18 contract where the cum ex seller had agreed a 19 trade under which they were going to deliver 20 ex-dividend shares.</p> <p>21      That's -- that's my opinion.</p> <p>22      <b>Q</b>   Mr. Wade, I used your term. You 23 said, "What people understand that to mean is 24 a transaction where you're going to execute a 25 trade before the trade date but only deliver</p>
<p style="text-align: center;">Page 160</p> <p>1 ex-dividend shares." And then I asked you 2 that same question using the same terminology 3 and you said that "delivered" is an imprecise 4 term.</p> <p>5       Is it your general practice to use 6 imprecise terms for your explanations?</p> <p>7       <b>MR. OXFORD:</b> Objection. Greg, I 8 think you're a little bit better than 9 that. The question was -- you asked him 10 what his -- if that was his only basis. 11 He gave you the other basis.</p> <p>12      So do you want to try again?</p> <p>13      <b>Q</b>   You can answer the question.</p> <p>14      <b>MR. OXFORD:</b> Sure. Is the 15 question, "Is it your general practice 16 to use" -- the transcript reads 17 "imprecise terms for your explanations," 18 and I object to that question.</p> <p>19      <b>MR. PRUDEN:</b> All right. An 20 objection is sufficient.</p> <p>21      <b>Q</b>   Mr. Wade, is it your assertion in 22 this case that all of the cum ex transactions 23 involved short sold shares from the seller to 24 ED&amp;F Man?</p> <p>25      <b>MR. OXFORD:</b> Object to the form.</p>	<p style="text-align: center;">Page 161</p> <p>1       <b>A</b>   I'm sorry. Can you repeat that 2 question again?</p> <p>3       Is it my testimony that what?</p> <p>4       <b>Q</b>   All of the cum ex transactions you 5 analyzed in this case involved short sold 6 shares from the seller to ED&amp;F Man?</p> <p>7       <b>MR. OXFORD:</b> Same objection.</p> <p>8       <b>A</b>   It's my -- it's my opinion in the 9 case of the annex E cum ex transactions, I 10 believe, confirmed beyond doubt by ED&amp;F Man 11 that they were short sold trades.</p> <p>12      In the case of the non-annex E 13 trades, which I've analyzed in detail, which 14 includes all the bell weather trades, it is 15 my conclusion that there are no meaningful 16 difference between those, and so that, yes, 17 it is my opinion that those transactions were 18 short sale cum ex sales by the counterparty.</p> <p>19      <b>Q</b>   Okay. So it's your assertion that 20 "cum ex sale" and "short sale" are 21 equivalent?</p> <p>22      <b>MR. OXFORD:</b> Object to the form.</p> <p>23      Misstates his testimony.</p> <p>24      <b>A</b>   Yeah. No, that's not what I said. 25 I think, earlier, you asked --</p>

CONFIDENTIAL  
Graham Wade – March 16, 2022

42 (Pages 162 to 165)

<p style="text-align: right;">Page 162</p> <p>1        <b>Q</b>   Sorry, I -- 2                    MR. OXFORD: Hold on. Greg, you 3                    asked him the question. Please let him 4                    finish. 5        <b>A</b>   Sorry. Can we have the question 6    back again, please? 7        <b>Q</b>   I'll ask another question. 8                    Is it your assertion that all 9    cum ex sales are short sales? 10          MR. OXFORD: Objection. You can 11                    answer. 12          <b>A</b>   By that question, do you mean 13                    generally or in the context of the specific 14                    transactions which I've given opinions on? 15          <b>Q</b>   Let's start generally first. 16          Is it your assertion generally that 17    all cum ex sales are short sales? 18          MR. OXFORD: Object to the form. 19          <b>A</b>   I couldn't possibly give an opinion 20    on all cum ex sales that have ever been done, 21    but my point earlier is that, in my 22    experience, it would be somewhat unusual to 23    do a cum ex sale, because the only situation 24    which, in all my market experience I've ever 25    seen a cum ex sale being done, is in order to</p>	<p style="text-align: right;">Page 163</p> <p>1                    give rise to a tax reclaim on a contract, 2                    which is the contract for delivery of 3                    ex-dividend shares. 4                    And if someone were long 5                    immediately before doing a cum ex, so they 6                    were doing a cum ex out of a long position, 7                    that is not an impossible thing to happen, 8                    but it would be a quite unusual thing to be 9                    done. 10          <b>Q</b>   And what's the basis for that 11                    testimony? 12          <b>A</b>   The basis for that testimony is 13                    being responsible and working in the 14                    structured finance industry for many years. 15          <b>Q</b>   Have you ever executed cum ex 16                    transactions yourself? 17          <b>A</b>   No. 18          <b>Q</b>   Have you, as far as you're aware, 19                    worked for an institution that ever entered 20                    into cum ex transactions? 21          MR. OXFORD: Object to form. 22          <b>A</b>   I believe it's a matter of public 23                    record that Barclays has executed cum ex 24                    transactions, but limited to -- as I say in 25                    my report, the nature of cum ex transactions</p>
<p style="text-align: right;">Page 164</p> <p>1    changed significantly, so not in 2012. 2        In my experience, prior to my 3    involvement in this case, it was only ever my 4    understanding that cum ex transactions were 5    executed in Germany and prior to the various 6    legislative changes that were made in 7    Germany. 8        <b>Q</b>   Okay. So you, prior to this case, 9    had no understanding of cum ex transactions 10    being executed in any context other than in 11    the German market prior to 2012. 12        Is that right? 13        MR. OXFORD: Object to the form, 14    misstates his testimony. 15        <b>A</b>   Yeah. My answer was, I think, that 16    Barclays, to my knowledge, only undertook 17    cum ex transactions prior to the legislative 18    changes in Germany and only ever undertook 19    them in respect of German shares, the reason 20    for that being that based on my market 21    experience and extensive understanding of the 22    European securities, no market participant or 23    advisor who I ever dealt with ever considered 24    the outside of those parameters, that a 25    cum ex transaction was effective.</p>	<p style="text-align: right;">Page 165</p> <p>1                    So maybe they executed them 2    in -- nobody at Barclays would have executed 3    them. Let's put it that way. 4        <b>Q</b>   Okay. And so is your familiarity 5    with cum ex transactions limited to the 6    manner in which Barclays has executed them? 7        MR. OXFORD: Object to the form. 8        <b>A</b>   No. I -- over the course of my 9    time at Barclays, you are not just aware of 10    transactions that Barclays is executing. You 11    are aware of a wide range of practice going 12    on in the market. 13        <b>Q</b>   Okay. Well, what other executions 14    of cum ex transactions are you aware of in 15    the market? 16        MR. OXFORD: Object to form. 17        <b>A</b>   I think my -- my point is that up 18    until no later than the beginning of 2012, 19    there were a wide range of 20    counterparties -- I think this is a matter of 21    public record -- who were undertaking cum ex 22    transactions in Germany based on their 23    understanding of a very specific procedural 24    rule, but that outside of Germany and outside 25    of that very specific procedural rule, there</p>

CONFIDENTIAL  
Graham Wade – March 16, 2022

43 (Pages 166 to 169)

Page 166	Page 167
<p>1 was no basis for thinking that a cum ex 2 transaction in any other jurisdiction would 3 be effective.</p> <p>4 Q Okay. I asked you whether you're 5 aware of any other cum ex transactions in the 6 market other than the transactions you've 7 just described.</p> <p>8 MR. OXFORD: If that's the 9 question, I'm going to object to the 10 form of it. It seems like a statement.</p> <p>11 Are you asking the question again?</p> <p>12 MR. PRUDEN: Yeah, I'll ask it as a 13 question.</p> <p>14 Q Are you aware of any other cum ex 15 transactions in the market other than what 16 you've just described?</p> <p>17 MR. OXFORD: Objection to the form.</p> <p>18 A As I think I've explained, and as I 19 refer to, it's referred to in the ESMA report 20 that I cite in my report.</p> <p>21 I think any market participant 22 prior to 2012 who was significantly involved 23 in the equity finance market was aware that 24 there were a large number of financial 25 institutions who were involved in cum ex</p>	<p>1 transactions in respect of Germany, but 2 Germany only.</p> <p>3 Q Okay. Can you tell me anything 4 about cum ex transactions that is not 5 otherwise a matter of public record?</p> <p>6 MR. OXFORD: Object to form.</p> <p>7 A I don't really understand the 8 question you're -- you're asking.</p> <p>9 Q Okay. Can you tell me anything 10 about how cum ex transactions were executed 11 in the market that is not contained in a 12 public record?</p> <p>13 MR. OXFORD: Object to the form.</p> <p>14 A I genuinely don't know what 15 your -- what you're expecting me to say to 16 that. I'm saying it's a matter of public 17 record. I was not personally involved, but 18 it's a matter of public record that Barclays 19 executed certain cum ex transactions.</p> <p>20 As I'm sure you're aware, there are 21 a number of ongoing investigations and 22 litigations into -- in respect of all those 23 transactions by a wide range of market 24 participants. What I'm telling you is that, 25 at the time, there were a number of large</p>
<p style="text-align: center;">Page 168</p> <p>1 financial institutions, hedge funds, and 2 other counterparties who were executing 3 cum ex transactions.</p> <p>4 But it is my -- based on my market 5 practice and understanding and my personal 6 knowledge, I was not aware of anyone who 7 either -- prior to my involvement in this 8 case, I was not aware of anyone who, 9 post-2012 outside Germany, thought that a 10 cum ex transaction was effective.</p> <p>11 That's the substance of my 12 testimony on that point.</p> <p>13 Q Okay. And in all your experience, 14 at any point, was there any aspect of your 15 job in which you were involved in either 16 executing, overseeing, or approving cum ex 17 transactions?</p> <p>18 MR. OXFORD: Objection to form.</p> <p>19 A To the best of my knowledge, no.</p> <p>20 Q Okay.</p> <p>21 MR. PRUDEN: Why don't we take that 22 lunch break now and then we can come 23 back in a half-hour or so.</p> <p>24 MR. OXFORD: Okay. Say in half an 25 hour. Thanks, Greg.</p>	<p style="text-align: center;">Page 169</p> <p>1 MR. PRUDEN: Thanks, guys.</p> <p>2 THE VIDEOGRAPHER: Stand by. The 3 time is 11:04 a.m. New York time and 4 we're going off the record.</p> <p>5 (Lunch recess taken.)</p> <p>6 THE VIDEOGRAPHER: Stand by. The 7 time is 11:55 a.m. New York time and 8 we're back on record.</p> <p>9 Q Okay. Mr. Wade, I want to start by 10 going over a series of assumptions with you. 11 And then, based on those assumptions, I'd 12 like you to answer a question.</p> <p>13 Is that clear?</p> <p>14 MR. OXFORD: Objection to form.</p> <p>15 A That's -- yeah, I'll do my best.</p> <p>16 Q Okay. So I want to start by 17 analyzing this hypothetical through the lens 18 of the non-annex E cum ex transactions.</p> <p>19 Does that make sense?</p> <p>20 A Okay. So we're talking about 21 non-annex E trades.</p> <p>22 Q Correct. Okay.</p> <p>23 I want you to assume for those 24 trades that the shares that were delivered to 25 ED&amp;F were never recycled.</p>

CONFIDENTIAL  
Graham Wade – March 16, 2022

44 (Pages 170 to 173)

<p style="text-align: right;">Page 170</p> <p>1               Okay?</p> <p>2               MR. OXFORD: Object to the form.</p> <p>3               <b>A</b>    Okay. That's counterfactual, but</p> <p>4    go on.</p> <p>5               <b>Q</b>    Okay. And I want you to assume</p> <p>6    that the seller of those shares had a long</p> <p>7    position in the securities that they sold on</p> <p>8    the trade date, which is the day before the</p> <p>9    ex date.</p> <p>10              Is that clear?</p> <p>11              MR. OXFORD: Objection to form.</p> <p>12              <b>A</b>    That's clear.</p> <p>13              <b>Q</b>    Okay. And then the transaction has</p> <p>14   an intended settlement date and an actual</p> <p>15   settlement date of the day after the record</p> <p>16   date.</p> <p>17              Okay?</p> <p>18              <b>A</b>    Understood.</p> <p>19              <b>Q</b>    Okay. Assuming those facts, would</p> <p>20   that change your opinion on whether the buyer</p> <p>21   of the shares would be entitled to a</p> <p>22   dividend?</p> <p>23              MR. OXFORD: Object to the form.</p> <p>24              <b>A</b>    So the only -- so the change versus</p> <p>25   the facts as I understand them is that the</p>	<p style="text-align: right;">Page 171</p> <p>1   cum ex seller was long at the time where it</p> <p>2   entered into the cum ex sale.</p> <p>3              Is that -- my understanding of your</p> <p>4   assumption correct?</p> <p>5              <b>Q</b>    Well, I'm not going to agree that</p> <p>6   that's different from the facts, but that's</p> <p>7   the assumption I'm asking you to assume.</p> <p>8              <b>A</b>    Okay. Understood.</p> <p>9              That would not change my ultimate</p> <p>10   opinion conclusion that the information on</p> <p>11   the tax vouchers was incorrect.</p> <p>12              <b>Q</b>    Okay. And what information on the</p> <p>13   tax vouchers would have been incorrect in</p> <p>14   that circumstance?</p> <p>15              MR. OXFORD: Object to form.</p> <p>16              <b>A</b>    All -- all three. All three of the</p> <p>17   key items on the tax voucher would still be</p> <p>18   incorrect.</p> <p>19              Because the cum ex purchaser did</p> <p>20   not own the shares on the record date, it did</p> <p>21   not receive the dividend, and it did not</p> <p>22   suffer the tax.</p> <p>23              <b>Q</b>    Okay. What is the basis for your</p> <p>24   assertion that in any circumstance, a</p> <p>25   purchaser must own the shares on the record</p>
<p style="text-align: right;">Page 172</p> <p>1   date in order to be entitled to the dividend?</p> <p>2              MR. OXFORD: Object to the form.</p> <p>3              <b>A</b>    The -- there are a range of reasons</p> <p>4   why I would reach that conclusion, that</p> <p>5   amongst those is the fact that based on, you</p> <p>6   know, my extensive market practice of</p> <p>7   situations like this, what the -- in the</p> <p>8   assumed facts that you've given, it's still</p> <p>9   the case that what the cum ex purchaser has</p> <p>10   been given is a dividend compensation</p> <p>11   payment.</p> <p>12              And based on my experience, what</p> <p>13   would have -- what could have been</p> <p>14   appropriate is if the cum ex -- a purchaser</p> <p>15   had been given a voucher which said, "You</p> <p>16   received a dividend compensation payment."</p> <p>17              That -- that -- but that's not what</p> <p>18   the tax vouchers state that they are.</p> <p>19              <b>Q</b>    And what in your extensive market</p> <p>20   practice experience leads you to believe that</p> <p>21   the payment that's made by a seller to a</p> <p>22   buyer in the hypothetical I just described</p> <p>23   would not be considered a dividend?</p> <p>24              MR. OXFORD: Objection to form.</p> <p>25              <b>A</b>    Well, because it is definitionally</p>	<p style="text-align: right;">Page 173</p> <p>1   a manufactured payment. And you know,</p> <p>2   amongst other things, I cited to the HMRC</p> <p>3   rules on manufactured dividends.</p> <p>4              And as I've said in my report, that</p> <p>5   distinction was well understood by market</p> <p>6   participants and it made an important</p> <p>7   difference in a number of different</p> <p>8   situations, not least obligations on filing</p> <p>9   manufactured overseas dividends returns,</p> <p>10   which, in the relevant period, I assume that</p> <p>11   ED&amp;F Man must have had to do because it was</p> <p>12   subject to those rules.</p> <p>13              <b>Q</b>    Okay. And so it's your testimony</p> <p>14   you know -- withdrawn.</p> <p>15              On my hypothetical, do you have an</p> <p>16   opinion on whether the pension plans would</p> <p>17   have had an entitlement to a tax reclaim?</p> <p>18              MR. OXFORD: Object to the form.</p> <p>19              <b>A</b>    And I assume you mean a tax reclaim</p> <p>20   in Denmark?</p> <p>21              <b>Q</b>    Yes, a tax reclaim in Denmark.</p> <p>22              MR. OXFORD: Same objection.</p> <p>23              <b>A</b>    On -- on the facts that you've</p> <p>24   asked me to assume, it's my opinion that what</p> <p>25   the pension plan received was a dividend</p>

CONFIDENTIAL  
Graham Wade – March 16, 2022

45 (Pages 174 to 177)

Page 174	Page 175
<p>1 compensation payment.</p> <p>2           If -- and I express no opinion on</p> <p>3 this because I'm not expressing opinions on</p> <p>4 Danish tax -- if the pension plan were able</p> <p>5 to take a receipt for a dividend compensation</p> <p>6 payment to the Danish tax authorities and</p> <p>7 make a reclaim, if you -- you know, if that's</p> <p>8 something that were possible, it would be</p> <p>9 highly surprising to me, based on market</p> <p>10 practice and, you know, my involvement in the</p> <p>11 European securities market, including</p> <p>12 understanding, you know, quite a lot about</p> <p>13 different tax regimes in that market, it</p> <p>14 would be very surprising.</p> <p>15           But if it was the case that a</p> <p>16 receipt for a dividend compensation payment</p> <p>17 entitled you to a tax reclaim in Denmark,</p> <p>18 that's not something I've offered an opinion</p> <p>19 on.</p> <p>20       <b>Q</b> Okay. But you would agree that</p> <p>21 whether or not what you described as a</p> <p>22 "dividend compensation payment" would entitle</p> <p>23 you to a tax reclaim in Denmark is a matter</p> <p>24 of Danish law.</p> <p>25       Right?</p>	<p>1           <b>MR. OXFORD:</b> Object to the form.</p> <p>2       <b>A</b> My opinion is that the contractual</p> <p>3 payment received in the facts that you asked</p> <p>4 me to assume would be a dividend compensation</p> <p>5 payment, and I expressed no opinion as to if,</p> <p>6 in those assumed facts, I had a voucher</p> <p>7 saying I received a dividend compensation</p> <p>8 payment.</p> <p>9           I express no opinion as to what</p> <p>10 that would entitle me to do vis-a-vis the</p> <p>11 Danish tax authorities.</p> <p>12       <b>Q</b> Okay. And so, your report, if I'm</p> <p>13 understanding correctly, expresses no opinion</p> <p>14 on whether or not the facts described in my</p> <p>15 hypothetical would lead to a valid tax</p> <p>16 reclaim application to Denmark.</p> <p>17           Is that right?</p> <p>18       <b>MR. OXFORD:</b> Object to the form.</p> <p>19       <b>A</b> No, I don't think that's right. I</p> <p>20 mean, firstly, I don't think anything</p> <p>21 connected with your assumed facts is actually</p> <p>22 covered in my opinions or reports, so I think</p> <p>23 it's a gating issue.</p> <p>24           I've expressed no opinion on your</p> <p>25 assumed facts in my report.</p>
<p style="text-align: center;">Page 176</p> <p>1       <b>Q</b> So your report expresses no opinion</p> <p>2 on that topic.</p> <p>3           Right?</p> <p>4       <b>MR. OXFORD:</b> Object to form.</p> <p>5       <b>A</b> No. What I just said is that I</p> <p>6 expressed no opinions in my report on your</p> <p>7 assumed hypothetical because my report is on</p> <p>8 the actual transactions which I reviewed.</p> <p>9       <b>Q</b> And are you otherwise able to offer</p> <p>10 an opinion based on my hypothetical,</p> <p>11 other -- even if you didn't do so in your</p> <p>12 report?</p> <p>13       <b>MR. OXFORD:</b> Object to the form.</p> <p>14       <b>A</b> An opinion as to what?</p> <p>15       <b>Q</b> Are you otherwise able to offer an</p> <p>16 opinion about whether the facts of my</p> <p>17 hypothetical would lead to a valid reclaim</p> <p>18 for a pension plan even if you did not do so</p> <p>19 in your expert report?</p> <p>20       <b>MR. OXFORD:</b> Object to the form.</p> <p>21       <b>A</b> At the risk of restating my answer,</p> <p>22 I think I -- it is my opinion that on your</p> <p>23 assumed facts, what the pension plan would</p> <p>24 have received would have been a dividend</p> <p>25 compensation payment, and that if, having</p>	<p style="text-align: center;">Page 177</p> <p>1 received a voucher which made it clear that</p> <p>2 that was a dividend compensation payment and</p> <p>3 not a real dividend, the pension plan was</p> <p>4 able to take that voucher to the Danish tax</p> <p>5 authorities and make a Danish tax reclaim,</p> <p>6 that would be a highly surprising outcome to</p> <p>7 me based on my market practice and</p> <p>8 experience.</p> <p>9           But I am not expressing -- I'm not</p> <p>10 here to express an opinion on the Danish tax</p> <p>11 reclaim process.</p> <p>12       <b>Q</b> Have you ever prepared tax</p> <p>13 vouchers?</p> <p>14       <b>MR. OXFORD:</b> Object to the form.</p> <p>15       <b>A</b> Yes.</p> <p>16       <b>Q</b> In what context?</p> <p>17       <b>A</b> I started my career at Deloitte.</p> <p>18 I've worked in financial services tax</p> <p>19 department. Tax vouchers were fairly common</p> <p>20 there.</p> <p>21           At Barclays, at various points in</p> <p>22 my career, I was responsible for -- from a</p> <p>23 front office perspective, of working group</p> <p>24 tax and ensuring that the manufactured</p> <p>25 overseas dividends returns that we made were</p>

CONFIDENTIAL  
Graham Wade – March 16, 2022

47 (Pages 182 to 185)

<p style="text-align: right;">Page 182</p> <p>1 not sure I fully understand the full terms of 2 the transaction, but -- and it doesn't sound 3 like something that would be very normal. 4                   But ultimately, my opinion is that 5 you have to understand the terms of the 6 transaction that was done between the 7 counterparties, taking into account all the 8 full facts of the transaction, and then make 9 a determination as to who owns what at what 10 point in time. 11                   So if you're effectively saying to 12 me, "Please assume that the terms of the 13 contract are that the dividend has been sold 14 to the buyer, do you agree that the dividend 15 has been sold to the buyer," then yes, I 16 would agree, based on that assumption, that 17 the dividend is owned by the buyer. 18                   Q And I'm asking you if the parties 19 to a transaction agree the day before the 20 ex date to sell and buy shares at a cum 21 dividend price, and agree to settle the day 22 after the record date, and the seller at that 23 time has a long position in the security that 24 is being sold, is a payment equal to the 25 dividend amount that the seller receives from</p>	<p style="text-align: right;">Page 183</p> <p>1 the issuer made to the buyer a dividend 2 compensation payment or a dividend? 3                   MR. OXFORD: Object to the form. 4                   Asked and answered. 5                   A Sorry. Can I just go through this 6 slowly, step by step? 7                   So the buyer agrees to buy -- the 8 contract, whatever the terms of this contract 9 are, are agreed the day before the 10 ex-dividend date. 11                   Is that correct? I just want to be 12 clear that I know exact facts on being asked 13 about this. 14                   Q Yeah. The trade date is the day 15 before the record -- sorry. The trade date 16 is the date before the ex date. 17                   A Okay. And then the settlement date 18 is what date? 19                   Q And the settlement date is the day 20 after the record date. 21                   A Okay. So the trade date is record 22 date minus one, and the settlement date is 23 record date plus one. 24                   Is that correct? 25                   Q No. Trade date is ex date minus</p>
<p style="text-align: right;">Page 184</p> <p>1 one. 2                   A Okay. Sorry. 3                   Q Settlement date is record date plus 4 one. 5                   A Yeah. Okay. And what was the 6 other -- 7                   Q The seller is long, has a long 8 position in the share as of the day before 9 the ex date, the trade date. 10                  A Yeah. 11                  Q Clear? And the price of the 12 transaction is sold at a cum dividend price. 13                  Clear? 14                  A Okay. 15                  Q The seller makes a payment to the 16 buyer equal to the amount that the seller 17 received from the issuer as a dividend. 18                  Is that clear? 19                  MR. OXFORD: Object to the form. 20                  A Well, I think you've -- you said 21 the seller makes a payment as a dividend. I 22 think the only entity that can make a payment 23 as a dividend is the issuer. 24                  So are you saying that the 25 seller -- are you saying that the seller has</p>	<p style="text-align: right;">Page 185</p> <p>1 agreed, as some kind of trustee relationship, 2 to pass on the dividend? 3                   I don't understand what that final 4 piece is. 5                  Q No. Okay. Let's take it in two 6 steps. 7                   The seller first receives a 8 dividend from the issuer. 9                  Okay? 10                 A Yeah. 11                  MR. OXFORD: Objection. 12                 Q Okay. And then the seller makes a 13 payment to the buyer equal to the amount of 14 the dividend that they received. 15                  Clear? 16                  MR. OXFORD: Objection to the form. 17                 A I think I'm clear on the payments 18 that are made, yeah. 19                 Q Okay. In those circumstances, is 20 the payment that the seller made to the buyer 21 a dividend or a dividend compensation 22 payment? 23                  MR. OXFORD: Object to form. Asked 24 and answered. 25                 A Well, I think you've, you</p>

CONFIDENTIAL  
Graham Wade – March 16, 2022

49 (Pages 190 to 193)

Page 190	Page 191
<p>1       <b>Q</b>   Okay. And is a "market claim" a 2 dividend compensation payment or a dividend? 3                   <b>MR. OXFORD:</b> Object to the form. 4       <b>A</b>   It does depend on the specific 5 facts and circumstances of the position. But 6 in general, the more common uses of "market 7 claim" is when a transaction has failed, and 8 so the person who thought they were buying a 9 dividend does not get that dividend as a 10 result of a fail, and then a payment is 11 passed along to them.</p> <p>12               That's -- that's my understanding, 13 and I think it's the market definition of a 14 market claim. But ultimately, market claim 15 says it's to the person who's contractually 16 entitled.</p> <p>17               So you have to understand the 18 nature of the securities transaction to work 19 out whether there should be a market claim, 20 and if so, what the nature of that market 21 claim is.</p> <p>22       <b>Q</b>   Okay. And you mentioned T2S. 23               As far as T2S is concerned, are you 24 aware of whether there's a general consensus 25 in T2S about what happens when the trade date</p>	<p>1       is prior to the ex date, the intended 2 settlement date is after the record date, and 3 the settlement instruction is also matched 4 after the record date and the payment date 5 for the security?</p> <p>6               Is a market claim 7 considered -- going back, does that 8 circumstance give rise to a market claim?</p> <p>9                   <b>MR. OXFORD:</b> Object to the form. 10       <b>A</b>   So we have a cum ex sale -- we have 11 a cum ex sale or a regular way sale?</p> <p>12       <b>Q</b>   We have a situation where the trade 13 date is prior to the record date and the 14 intended settlement date is after -- sorry. 15 Withdrawn.</p> <p>16               We have a situation where the trade 17 date is prior to the ex date and intended 18 settlement date is after the record date.</p> <p>19       <b>A</b>   Okay. I think, as I've explained 20 in my report, that -- and it settles as 21 expected -- am I allowed to assume that?</p> <p>22       <b>Q</b>   Yes, you can. Yes. 23       <b>A</b>   Okay. In that case, no, I don't 24 think that would meet the definition of a 25 market claim.</p>
Page 192	Page 193
<p>1       <b>Q</b>   Okay. And that's based on your 2 overall understanding in the market of how 3 that's treated?</p> <p>4                   <b>MR. OXFORD:</b> Object to the form. 5       <b>A</b>   That's a significant component. 6 There are other -- I mean, in my -- in my 7 reply report, I think it's my reply report, I 8 go through, you know, various, you know, 9 aspects that lead me to -- lead me to that 10 conclusion.</p> <p>11       <b>Q</b>   Okay. You're aware that Denmark 12 withholds 27 percent of gross dividend 13 amounts paid at the source as tax. 14               Right? 15       <b>MR. OXFORD:</b> Object to the form. 16       <b>A</b>   That's my understanding at the 17 relevant time, yeah. 18       <b>Q</b>   Okay. And you're -- you also 19 understand that unless you're entitled to 20 some kind of special tax status, you are 21 liable for that full 27 percent of the gross 22 dividend. 23               Right? 24       <b>MR. OXFORD:</b> Object to the form. 25       <b>A</b>   I don't -- in terms of what</p>	<p>1       "liable" means, who's -- who's the person 2 receiving the dividend, what -- what country 3 are they in, you know, are they a Danish tax 4 resident, are they a non-Danish tax resident. 5 There are a number of factors.</p> <p>6               But if your question is if I -- if 7 I received directly a real dividend and 8 27 percent tax is withheld on it, is that tax 9 that I have suffered, yeah, my understanding 10 is that yes, I have suffered that tax. 11       <b>Q</b>   Okay. And if you have special tax 12 status, you can reclaim that tax from the 13 Danish government. 14               Right? 15       <b>MR. OXFORD:</b> Object to the form. 16       <b>A</b>   That all depends on the facts and 17 circumstances around the transaction. 18       <b>Q</b>   Okay. Well, assuming that the 19 person who receives -- withdrawn. 20               Assuming that the person who 21 applies for the tax refund is the beneficial 22 owner of the dividend, they can receive a 23 reclaim from the Danish government if they 24 are entitled to some kind of special tax 25 status.</p>

CONFIDENTIAL  
Graham Wade – March 16, 2022

50 (Pages 194 to 197)

<p style="text-align: right;">Page 194</p> <p>1 Right? 2 MR. OXFORD: Object to the form. 3 A So, as I think we've discussed 4 earlier, it's -- it's not my place here and 5 today to express an opinion on the Danish tax 6 law and exactly what a given holder of 7 dividend is entitled to physically via the 8 Danish tax authorities. 9 So, in general terms, no other 10 arrangements or unusual circumstances, that 11 would be one of the starting point conditions 12 I understand are making a reclaim. But I'm 13 not expressing a view on the exact 14 requirements of any Danish tax process. 15 Q Okay. And second, would you be 16 able to determine whether particular 17 individuals are subject to certain tax status 18 within Denmark? 19 MR. OXFORD: Object to the form. 20 A In my -- in my -- my reports have 21 been focused on the transactions and whether, 22 amongst other things, the tax vouchers 23 produced were accurate, what the consequence 24 is, and how those tax vouchers could be used, 25 and what rights of any given person may have</p>	<p style="text-align: right;">Page 195</p> <p>1 or may not have vis-a-vis the Danish tax 2 authorities is not something I've given an 3 opinion. 4 Q Because you're not an expert on 5 what tax status individuals have with respect 6 to tax reclaim applications to the Danish 7 government. 8 Right? 9 MR. OXFORD: Object to the form. 10 A I think that's a slightly different 11 formulation. I'd say that based on my market 12 practice and experience, you know, I -- I 13 have some understanding of some of the basic 14 requirements for these kind of situations. 15 But on the specific point of, you 16 know, if you tell me that in a situation 17 where the person didn't receive -- didn't 18 actually have the shares, didn't receive a 19 dividend, didn't actually suffer tax, that 20 nevertheless it is possible under Danish tax 21 law to make a reclaim, I find that very 22 surprising. 23 But that is not an opinion on which 24 I've -- you know, I'm not expressing an 25 opinion on that final point.</p>
<p style="text-align: right;">Page 196</p> <p>1 Q What's your understanding of the 2 situations in which a foreign shareholder 3 would be subject to tax at 15 percent under a 4 double taxation treaty? 5 MR. OXFORD: Object to form. 6 A Sorry. A Danish? 7 MR. OXFORD: He said "foreign 8 shareholder." 9 A Sorry. Foreign shareholder. 10 MR. OXFORD: Can you just read your 11 question back, Greg? Sorry. 12 MR. PRUDEN: Sure. 13 Q What is your understanding of the 14 situations in which a foreign shareholder 15 would be subject to tax of 15 percent under a 16 double taxation treaty? 17 MR. OXFORD: Object to the form. 18 A Well, I think there's a number of 19 networks of tax treaties around Europe, and 20 many of them are mutual tax treaties. And 21 there are -- there are wide range of 22 jurisdictions under which different countries 23 have agreed that the maximum withholding tax 24 that can be levied on a dividend is limited 25 to 15 percent.</p>	<p style="text-align: right;">Page 197</p> <p>1 So a foreign shareholder that 2 complies with all the conditions of the 3 relevant tax authority, the relevant treaty, 4 and depending on the facts and circumstances, 5 would be entitled to either limit their 6 withholding to 15 percent in the first place 7 or make a recovery if they've been 8 over-withheld to get them back to 15 percent. 9 Q What are the additions that you 10 understand of the Danish tax authority to 11 recover tax back to 15 percent of the overall 12 amount of the dividend? 13 MR. OXFORD: Object to the form 14 when you say what are the circumstances 15 in which the Danish authority can 16 recover tax back to 15 percent of the 17 overall dividend amount? 18 Is that the question? 19 MR. PRUDEN: I think there was some 20 issue with the way that the question is 21 down here. So let me rephrase. 22 MR. OXFORD: Okay. Appreciate it. 23 Thanks. 24 Q Okay. What are the conditions that 25 you understand the Danish tax authority to</p>

CONFIDENTIAL  
Graham Wade – March 16, 2022

52 (Pages 202 to 205)

Page 202	Page 203
<p>1 general that there are some shareholders of 2 Danish shares who are entitled only to 3 73 percent of the gross dividend paid under 4 Danish law.</p> <p>5                   Correct?</p> <p>6                   MR. OXFORD: Object to the form.</p> <p>7                   A   Generally in the whole world are 8 there any shareholders who, on receiving a 9 Danish dividend, suffer 27 percent 10 withholding and cannot recover it? I would 11 agree that in general that -- yeah, I would 12 be very surprised if that wasn't the case.</p> <p>13                   Q   Okay. In those circumstances, for 14 that party, it would be rational for that 15 party to sell its dividend right to a party 16 with entitlement to either the tax at the 17 zero percent or 15 percent tax rate as long 18 as they sold the dividend for greater than 19 73 percent of the gross dividend amount.</p> <p>20                   Right?</p> <p>21                   MR. OXFORD: Object to form.</p> <p>22                   A   No. Obviously, it depends on who 23 the shareholder is and what their 24 circumstances are.</p> <p>25                   But if they were a sophisticated</p>	<p>1 financial institution who was active in the 2 equity finance markets, and the market level 3 for dividend compensation payments at that 4 particular point in time was 90 percent of 5 the gross dividend, it would be an irrational 6 transaction for them to sell at any number 7 above 73. It would be irrational for them to 8 sell at any level below 90 if, on my 9 assumption, the prevailing market level is 10 90.</p> <p>11                   Q   And is your assertion that the 12 market level is 90 based on anything other 13 than the price that you observed for the 14 cum cum transactions?</p> <p>15                   MR. OXFORD: Object to the form.</p> <p>16                   A   Yes. It's, you know, the -- in the 17 course of my experience, particular markets 18 in Europe at particular points in time tend 19 to have a general level around which they 20 trade.</p> <p>21                   And based on my experience, 22 90 percent, give or take, tends to be the 23 ballpark for a number of -- a number of 24 markets.</p> <p>25                   Q   What markets in Europe form the</p>
<p style="text-align: center;">Page 204</p> <p>1 basis for your experience?</p> <p>2                   A   Sorry?</p> <p>3                   Q   Which markets in Europe form the 4 basis for your experience?</p> <p>5                   A   Well, I can't remember the full 6 list of markets. But, you know, in my time 7 at Barclays, Barclays traded positions across 8 nearly all the active main indices in Europe, 9 so that certainly includes Denmark.</p> <p>10                  Q   Are you relying on any other 11 experience beyond Barclays or any other 12 sources besides experience for that 13 90 percent figure you cite?</p> <p>14                  MR. OXFORD: Objection to form.</p> <p>15                  A   The first thing that I just want to 16 be clear on is that the 90 percent is not a 17 hard and fast number. And as I said, it can 18 vary across market and it can vary across a 19 particular dividend event, and I think I've 20 made that point clear in my report.</p> <p>21                  But at the relevant time, I was 22 working at Barclays and had responsibility 23 for Barclays' equity finance activity, or at 24 least a large portion of it. And based on 25 that experience, it's my understanding that,</p>	<p style="text-align: center;">Page 205</p> <p>1 at that time, the market level in Denmark was 2 somewhere around 90 percent.</p> <p>3                   Q   Are you aware of any other entities 4 besides pension plans who would have an 5 economically rational basis to acquire a 6 dividend at 90 percent of the gross dividend 7 rate in Denmark?</p> <p>8                   MR. OXFORD: Object to the form.</p> <p>9                   A   Yes.</p> <p>10                  Q   Who else besides pension plans?</p> <p>11                  A   Well, any range of financial 12 institutions might want to acquire dividends 13 at that level. Danske Bank, for example, was 14 active in the European equity finance market.</p> <p>15                  I don't know the exact position of 16 Danske Bank, but I would think that the 17 dividend would almost be certainly worth at 18 least 90, if not a hundred to them. Both 19 European and U.S. financial institutions 20 would almost certainly have been able to 21 obtain value for 85.</p> <p>22                  In many cases, they were -- they 23 also may well have been able to achieve a 24 hundred, not necessarily through a tax 25 reclaim, but through other mechanisms</p>

CONFIDENTIAL  
Graham Wade – March 16, 2022

53 (Pages 206 to 209)

Page 206	Page 207
<p>1 involving foreign tax credit relief.      2 So I would think there would be a      3 wide -- the reason the market was around 90      4 is because there are some tax disadvantaged      5 people and some tax advantaged people, and      6 the tax disadvantaged people are going to      7 want to earn as much as they can for selling      8 their dividends, and the tax advantaged      9 people are going to want to pay as little as      10 they can to acquire dividends.</p> <p>11 And the market is a reflection of      12 the aggregate supply and demand at any given      13 time. And that's what sets the level.</p> <p>14 Q Okay. And the level depends on the      15 number of people who are tax advantaged and      16 non-tax advantaged.</p> <p>17 Right?</p> <p>18 MR. OXFORD: Object to the form.</p> <p>19 A In general terms, that's -- yeah,      20 that's one of the factors, yeah.</p> <p>21 Q Okay. And can you explain to me      22 the process by which a non-pension plan could      23 recover a hundred percent by use of foreign      24 tax credit relief?</p> <p>25 A Well --</p>	<p>1 MR. OXFORD: Object to form. You      2 can answer.</p> <p>3 A Okay. So, in depending on the      4 particular rules and tax position of a      5 particular entity, it may well be that the      6 entity is happy to suffer a foreign tax like      7 Danish tax, because the way -- the way the      8 dividend gets included in its overall tax      9 position.</p> <p>10 So let's take -- and this was      11 relatively common -- a U.S. financial      12 institution which operates its European      13 broker dealer through a separate subsidiary.      14 They would be taxed both in the U.K. and on a      15 local basis because it's a legal entity based      16 in the U.K., and they'd also be taxed on a      17 global basis, either currently or ultimately      18 on repatriation, and so they would need to      19 understand all those consequences.</p> <p>20 And it's my understanding that a      21 number of U.S. financial institutions would      22 regularly be happy to acquire dividends and,      23 you know, be quite happy to suffer foreign      24 withholding tax. Because the impact for them      25 was that it reduced their -- either their</p>
<p style="text-align: center;">Page 208</p> <p>1 European tax liability or their U.S. tax      2 liability, and that therefore, the overall      3 after-tax affect of acquiring the dividend      4 would be to receive a hundred percent of the      5 dividend on an after-tax basis.</p> <p>6 Q All right.</p> <p>7 MR. PRUDEN: Why don't we take a      8 short break? I'm conscious of the other      9 questioners who might want to ask. I'll      10 probably have a little more when we come      11 back, but I just want to organize a      12 little bit first to streamline this a      13 bit.</p> <p>14 MR. OXFORD: Okay. Let's take ten      15 minutes.</p> <p>16 THE VIDEOGRAPHER: Okay. Stand by.      17 The time is 12:50 p.m. New York time and      18 we're going off the record.</p> <p>19 (Brief recess taken.)</p> <p>20 THE VIDEOGRAPHER: Stand by. The      21 time is 1:06 p.m. New York time and      22 we're back on record.</p> <p>23 Q I just have a few more minutes of      24 questions.</p> <p>25 Are you familiar with a set of</p>	<p style="text-align: center;">Page 209</p> <p>1 options at Barclays for Renaissance      2 Technologies known as "Cult"?</p> <p>3 MR. OXFORD: Object to the form.</p> <p>4 A Yes.</p> <p>5 Q And what do you understand Cult to      6 be?</p> <p>7 A Well, I have to be careful here      8 because, you know, I -- under my contractual      9 position with Barclays, I have to be careful      10 about talking about the specifics of a given      11 transaction.</p> <p>12 And this was a transaction that      13 Barclays executed for one of its clients, so.</p> <p>14 Q Okay. Let's do it this way. I'll      15 ask you questions and you tell me if you      16 agree or not.</p> <p>17 Were Cult options designed to be      18 written for a period of longer than 12 months      19 so that Renaissance could realize long-term      20 capital gains even on short-term trading that      21 they did within the options basket?</p> <p>22 MR. OXFORD: Object to the form.</p> <p>23 A The -- the transactions as I      24 understand them were originally designed by      25 Renaissance Technologies, so I am unable</p>

CONFIDENTIAL  
Graham Wade – March 16, 2022

69 (Pages 270 to 273)

Page 270	Page 271
<p>1       A    There's -- there's two separate 2    questions.  There's who does the ultimate tax 3    liability fall on, and who is responsible for 4    the withholding of tax.</p> <p>5       My general understanding is that 6    the -- it's the issuer or its paying agent 7    who is responsible for the withholding of 8    tax.  The withholding in general is not 9    always a final tax.</p> <p>10       So the taxation of the income on 11    which that withholding relates is a question 12    of who the recipient is and on all the facts 13    and circumstances around how they 14    receive -- in what basis they receive the 15    income to which it relates.</p> <p>16       Q    So is the process different in the 17    United States than it is in Denmark?</p> <p>18       MR. OXFORD:  Object to the form.</p> <p>19       A    Almost certainly there will be a 20    number of differences in how that operates.</p> <p>21       Q    But when you say "almost 22    certainly," does that mean you're almost 23    certain or what do you mean by that?</p> <p>24       A    I mean that in my -- in my 25    experience of looking at a number of</p>	<p>1    different tax jurisdictions, it is -- it 2    would be almost inconceivable to me that the 3    Danish payment and collection process is 4    exactly the same as the U.S. payment and 5    collection process.</p> <p>6       Q    But you don't know?</p> <p>7       MR. OXFORD:  Objection to form.</p> <p>8       A    I -- no, I'm not giving an opinion 9    on the exact details of either the U.S. tax 10    administration system or the Danish tax 11    administration system.  Hopefully, I've been 12    clear that that's not something I'm here 13    giving an opinion on.</p> <p>14       But I think you previously asked 15    me, in general terms, what is my 16    understanding of how these processes work, 17    which is what I was trying to answer.</p> <p>18       Q    Okay.  So you're not giving a 19    specific opinion on the details of the 20    administration of the Danish tax system.</p> <p>21       Are you giving a general opinion on 22    the administration of the Danish tax system, 23    sir?</p> <p>24       MR. OXFORD:  Object to the form.</p> <p>25       A    I am not giving any opinion as</p>
Page 272	Page 273
<p>1    regards Danish tax law or the administration 2    of the Danish tax system.</p> <p>3       Q    I'd ask you to turn if you could 4    to --</p> <p>5       MR. OXFORD:  Oh, sorry, Mike.  The 6    witness is asking to take a break. 7    We've been going a little over an hour. 8    Can we take a five to ten-minute break?</p> <p>9       MR. BONGIORNO:  Sure.</p> <p>10       THE VIDEOGRAPHER:  Stand by.  The 11    time is 2:55 p.m. New York time and 12    we're going off the record.</p> <p>13       (Brief recess taken.)</p> <p>14       THE VIDEOGRAPHER:  Stand by.  The 15    time is 3:15 p.m. New York time and 16    we're back on record.</p> <p>17       MR. BONGIORNO:  So just to clarify 18    on the record, we have marked as 19    Exhibit 5100, the opening Carr report; 20    5101, the Carr rebuttal report; and 21    5102, the Carr reply report.</p> <p>22       (Whereupon the above mentioned was 23    marked for identification.)</p> <p>24       Q    Mr. Wade, I would like you to go to 25    your reply report, which I think is</p>	<p>1    Exhibit 5003.  You probably have that 2    somewhere nearby.</p> <p>3       A    Yeah, got it.</p> <p>4       Q    For some reason I'm not seeing you 5    on the screen, so hopefully -- well, I don't 6    know, hopefully or not, but perhaps you're 7    seeing me, but I'm not seeing you. 8       I don't know what we can do about 9    that.</p> <p>10       A    I'm seeing you okay.</p> <p>11       Q    Oh, there we go, there we go. 12    You're back.  Thank you.</p> <p>13       So you have your reply report in 14    front of you, sir?</p> <p>15       A    I do.</p> <p>16       Q    Okay.  Could you go to 17    Paragraph 240, parenthesis "2?" 18       Sorry.  It's not a parentheses. 19    It's just a number "2."  It's on Page 114.</p> <p>20       MR. OXFORD:  Yeah, I've got that.</p> <p>21       Q    Do you have that in front of you?</p> <p>22       A    I do.</p> <p>23       Q    Okay.  I'd like you to read that 24    paragraph to yourself, and I want to -- and 25    then I'm going to focus you on the last</p>

CONFIDENTIAL  
Graham Wade – March 16, 2022

70 (Pages 274 to 277)

Page 274	Page 275
<p>1 sentence.</p> <p>2 Let me know when you've completed</p> <p>3 reading the paragraph to yourself.</p> <p>4 A (Witness reviewing.)</p> <p>5 I've read it, yeah.</p> <p>6 Q I'm going to direct your attention</p> <p>7 to the last sentence of that paragraph. I'll</p> <p>8 read it out loud. Then I will have a</p> <p>9 question for you.</p> <p>10 "In particular, there's no basis to</p> <p>11 claim receipt of a dividend (or any test</p> <p>12 reclaim rights which derive from such</p> <p>13 dividend) on what is, in effect, a derivative</p> <p>14 position."</p> <p>15 Do you see that?</p> <p>16 A I do see that.</p> <p>17 Q Okay. Did I read that correctly?</p> <p>18 A I believe so, yeah.</p> <p>19 Q Okay. What do you mean by "a</p> <p>20 derivative position?"</p> <p>21 What does that mean?</p> <p>22 A Well. In the situation that this</p> <p>23 relates to, based on the facts as I've</p> <p>24 referenced in my report, if there are in fact</p> <p>25 no shares, then irrespective of what</p>	<p>1 the -- you know, the pension plan statement</p> <p>2 may show, all they can possibly have is a</p> <p>3 contractual claim against its prime broker,</p> <p>4 which, when I use the word "derivative," I'm</p> <p>5 using that in the market sense to mean if I</p> <p>6 have a derivative in respect of the share,</p> <p>7 that means a -- an asset which derives its</p> <p>8 value from the price of a share, but it is</p> <p>9 not, itself, the share.</p> <p>10 That's all I mean by that.</p> <p>11 Q So by "derivative" you mean</p> <p>12 a -- like a contract with -- a contract where</p> <p>13 there aren't any shares?</p> <p>14 A Yeah. I'm saying that if a -- if a</p> <p>15 prime broker is somehow -- and this would not</p> <p>16 be, in my experience, normal practice -- but</p> <p>17 if somehow a prime broker is representing to</p> <p>18 its client that he's created a position, but</p> <p>19 in fact it never settled that position, then</p> <p>20 if there is any position as between the</p> <p>21 pension plan and its prime broker, it must be</p> <p>22 some kind of contractual derivative, being a</p> <p>23 contract which derives its price from the</p> <p>24 value of a share.</p> <p>25 Q Okay. I want to direct your</p>
<p style="text-align: center;">Page 276</p> <p>1 attention to a different document now.</p> <p>2 If you could go to that Wilmer Hale</p> <p>3 notebook that I think you still have</p> <p>4 somewhere nearby?</p> <p>5 And if you'd go to the Tab 5105.2?</p> <p>6 MR. BONGIORNO: This will be</p> <p>7 Exhibit Number 5105.</p> <p>8 (Whereupon the above mentioned was</p> <p>9 marked for Identification.)</p> <p>10 A So I've got 5105. That's the tab.</p> <p>11 Q Is -- do you have something that</p> <p>12 says 5105.2?</p> <p>13 A I don't believe so, no. It goes</p> <p>14 from 5105 to 5106.</p> <p>15 Q Okay. So is there a blue sheet in</p> <p>16 that 5105 in between the pages?</p> <p>17 A There is.</p> <p>18 Q Okay. I'd like you to go to the</p> <p>19 document that's behind the blue sheet.</p> <p>20 Okay? Is that a two-sided</p> <p>21 document?</p> <p>22 A It is.</p> <p>23 Q Okay. And does the back side of</p> <p>24 that document have a Bates number that ends</p> <p>25 in 5320?</p>	<p style="text-align: center;">Page 277</p> <p>1 A It does.</p> <p>2 Q Okay. So I'd like to mark that</p> <p>3 document as Exhibit 5105.</p> <p>4 Okay?</p> <p>5 (Whereupon a discussion was held</p> <p>6 off the record.)</p> <p>7 Q So you have in front of you the</p> <p>8 document that ends in Bates number 5320?</p> <p>9 A The one that says "Cash Equity</p> <p>10 Confirmation."</p> <p>11 Q Exactly. And that is Exhibit 5105.</p> <p>12 So you have that in front of you.</p> <p>13 Do you know whether or not this is</p> <p>14 a document that you looked at in connection</p> <p>15 with the preparation of your reports?</p> <p>16 A I don't specifically know whether</p> <p>17 this is one that I looked at.</p> <p>18 Q Okay. And you can see that this is</p> <p>19 an e-mail from Execution@FGC Securities to</p> <p>20 Adam@Delvian Group.</p> <p>21 Right?</p> <p>22 MR. OXFORD: Object to the form.</p> <p>23 Q Sorry. That's not the case, that's</p> <p>24 the cover e-mail. Okay. I'm sorry.</p> <p>25 The binders have gotten the best of</p>